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United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-
ITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee.

and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-
tion, Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,
Appellee.

VOLUME III.
(Pages 833 to 1248, Inclusive.)

Filed

Upon Appeals from the United States District Court
for the Territory of Hawaii.

JUL 2 1914
F. D. Monckton,
Clerk.

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(Testimony of Isaiah Bray.)

Q. Never had any difficulty in getting her off?

A. Yes, sometimes, quite a little.

Q. You would always use the anchor out astern?

A. Always.

Q. Applying your steam winch to the anchor-chain thus pulling her off?

A. Using the propeller all that we could when we could.

Q. How many times would you say this occurred to you? [1204—360]

A. Seven or eight times, I should think.

Q. And while you were master of the second "Morning Star" did this occur at any time—the same thing, the same experience?

A. That is the one I am speaking of now.

Q. I say the first "Morning Star"?

A. That was nothing but a sailing vessel.

Q. She had no auxiliary power? A. No.

Q. She was six or seven hundred tons?

A. She was smaller.

Q. How many tons? A. About three hundred.

Q. How many times did you go ashore?

A. I couldn't tell.

Q. About how many times?

A. I couldn't begin to tell you. We were working around those waters where every lagoon is full of coral reefs. That is asking a pretty difficult thing from me.

Q. You always got her off? A. Always.

Q. By means of an anchor? A. Always.

Q. How would you apply power?

A. Use whatever power we had.

(Testimony of Isaiah Bray.)

Q. What power did you have?

A. Tackles and windlass.

Q. Didn't have a steam winch?

A. No, capstan and windlass.

Q. And it was while you were master of the second "Morning Star" that you went aground seven or eight times?

A. I'm not pretending to tell you the exact number of times.

Q. What did you mean when you testified seven or eight times? A. I meant as near as I know now.

Q. That's what you think it was?

A. Possibly. [1205—361]

Q. You can't say how many times you were aground with the first "Morning Star"?

A. If it was necessary I could tell definitely. I always kept an abstract log and I can tell definitely every occurrence in my sea experience.

Q. How many years is it now since you left the sea, going to sea?

A. Well, I am going to sea ever day now.

Q. Well, I mean deep-sea sailing.

A. I was about seven years superintendent of the Sailors' Home; I've been little over five years in the Quarantine. During that time I took this steamer "Lihua" over to San Francisco.

Q. Except for taking the "Lihua" over to San Francisco, you haven't been in deep sailing for the last twelve years? A. No.

Q. But you say you are going to sea every day. That is, of course, when you are taking officers of the Quarantine Service to vessels in the harbor?

(Testimony of Isaiah Bray.)

A. Out to sea. It's out to sea.

Q. Do you mean that you go to sea outside the entrance of the harbor?

A. It's outside of the harbor, at sea.

Q. How far?

A. Sometimes we go a couple of miles out.

Q. In a launch? A. Yes.

Q. This launch you spoke of the other day?

A. Yes.

Q. How many tons is she?

A. Two or three tons.

Q. And that is the character of the sailing you have done during the last five years?

A. Some of the nastiest sailing I ever did in my life; most dangerous. [1206—362]

Q. Now, Captain, when you first saw the "Celtic Chief" on Monday morning there were no—according to your recollection there were no tugs or other vessels towing on her at all at that time?

A. May it please your Honor, I would like to make a little statement in regard to the coming up of this steamer. I've been looking over my log-books and talking with my engineer who was with me at the time, who agrees with me, but I haven't anything in the log-books stating the vessel coming up and going on the reef. Previous to her coming on that reef there was a similar occurrence, another vessel that came up in about the same way and I don't want to testify under oath that I am sure which was which, here, whatever. It is very possible that I may be getting the previous one mixed with the "Celtic Chief," but in talking the matter over with my engineer we both

(Testimony of Isaiah Bray.)

feel confident that it was the "Celtic Chief" that we saw come up and go ashore.

Q. What was this other vessel that you now refer to?

A. I think it was the "Corringa." I haven't had time to go back to my logs and ascertain the facts.

Q. How many years before the "Celtic Chief" went aground was it? A. I don't know.

Q. You mean—the "Corringa" is the name of the other vessel? A. I'm not sure of that even.

Q. There was another vessel that went ashore there? A. Yes, or very nearly the same place.

Q. How many years ago was that?

A. I don't know. [1207—363]

Q. Have you no idea?

A. It might have been one, two, or three years perhaps.

Q. Within the last five years?

A. I think so. I'm out there at the coming of every ship that comes into the port and it is very easy to get one mixed with the other.

Q. You've only been in the Quarantine Service for five years? A. Yes.

Q. And in that time you did observe a ship coming ashore as you have recalled? A. Yes.

Q. And if it was not the "Celtic Chief" it was the "Corringa"? A. Probably.

Q. Was it the "Corringa" or some other vessel?

A. I can't tell you; I've got to look up my logs.

Q. There was some other vessel went on the reef there? A. There was.

Q. And you think it was the "Corringa"?

(Testimony of Isaiah Bray.)

A. I think so, yes.

Q. I wish you would look your log-book up. I want to know what vessel it was that went ashore in the neighborhood where the "Celtic Chief" went aground and with which you may have been confusing the "Celtic Chief" when you testified the other day. Will you do that? A. Yes, I will.

Q. When you came out there to the "Celtic Chief" is it true that there were no steamers or tugs towing on the "Celtic Chief" at that time?

A. I told you that I couldn't tell you for sure.

Q. You don't know; have no recollection whatever?

A. I know the "Huki Huki" was out there. Whether—

Q. You have no recollection of any other steamers?

A. I have a recollection of all the steamers which were [1208—364] out there sooner or later.

Q. I know, but I say when you first came out there? A. I can't say for sure.

Q. You don't think there were any other steamers?

A. I don't think there was.

Q. Then this disturbance of the water that you testified to on direct examination, which, in your opinion, served to, had a tendency to cause the "Celtic Chief" to go farther aground, was observed by you on your second visit to the "Celtic Chief" a day or two later? A. Yes.

Q. There were then several steamers towing upon the "Celtic Chief"? A. Yes.

Q. Inter-Island steamers? A. Yes.

Q. Do you remember what day that was that you

(Testimony of Isaiah Bray.)

went out there? A. I can tell you.

Q. Please do so.

A. You mean the first time or second?

Q. Let's have the first time. What are these notes that you are referring to, Captain? A. My log.

Q. Your official log?

A. It's a book I scratch down things in and copy into the official log.

Q. It is what? A. It's my log slate.

Q. When you find the reference to the first visit you made to the "Celtic Chief," will you kindly show me the notes that you made, before testifying?

A. December 6. (Witness hands book to Mr. Olson.)

Mr. OLSON.—(To Counsel.) Do you want to look at this?

The WITNESS.—I prefer to keep this. If I am going to allow it to be read, then you must have the permission [1209—365] of the Chief Quarantine Officer.

The COURT.—You have no objection to Mr. Olson looking at that page.

A. As far as that is concerned that is all right.

Mr. WEAVER.—Is there anything in this of a personal nature?

A. Personal? No.

Mr. WARREN.—If the witness tells us that this is a book of original entry from which you make—

A. Yes, where I make a note and rub out anything and then put things in afterwards and then copy into the official log.

Mr. WARREN.—I have no objection to the wit-

(Testimony of Isaiah Bray.)

ness testifying from it, may it please the Court.

Mr. OLSON.—Q. Now, the first time that you went out to the “Celtic Chief,” refreshing your memory from your notes, Captain? What day was this when you first went out there?

A. December 6.

Q. And what did you find, what vessels did you find out there at the “Celtic Chief”?

A. Beside the “Celtic Chief”?

Q. Yes.

A. The steamship “Chiyo Maru” and the schooner “Churchill.”

Q. Those were outside of the harbor?

A. Outside. The latter was anchored.

Q. And you went over to the “Celtic Chief”?

A. We went to the “Chiyo Maru,” gave her par-tique, hence to the ship “Celtic Chief,” aground.

Q. You’ve made no note there, have you, Captain, of having seen the “Celtic Chief” go aground?
[1210—366]

A. No; that’s what mixes me more than anything else.

Q. You have also a note, have you, Captain, that the “Mikahala,” the “Helene,” the “Iwalani,” the “Huki Huki”—no, the “Intrepid”—the “Huki Huki” and “Mokolii” were all pulling on the “Celtic Chief” that day. When was that entry made in that book? A. On that day.

Q. Now then, when was it that you saw those boats pulling on the “Celtic Chief”?

A. Sometime during that day.

Q. Where did you see them from?

(Testimony of Isaiah Bray.)

A. Quarantine wharf.

Q. How far was the Quarantine wharf from the "Celtic Chief"? A. Possibly a mile.

Q. From where she was, could you, were you able to determine which was the "Intrepid," the "Mikahala," the "Iwalani," and the "Huki Huki" that were pulling on that vessel on that day? Could you tell them a mile distant?

A. Could tell them anywhere I would see them.

Q. But you hadn't seen them prior to the time you had seen them from the Quarantine Wharf?

A. I hadn't seen them.

Q. The "Huki Huki" was the first off that day?

A. She was the first boat that I remember.

Q. Do you remember whether she was pulling on the "Celtic Chief"? A. She was pulling on her.

Q. All that day? A. Some part of it, I know.

Q. Well now, when was it then that you went out there again, Captain?

A. We went to her twice at that time. [1211—367]

Q. What's that?

A. According to my notes, we went to her twice at that time.

Q. On that same day?

A. We went to the "Chiyo Maru," gave her par-tique; went to the "Celtic Chief," aground and they were too busy to give any attention and we went back to the schooner, gave her pratique; then went back to the "Celtic Chief" and the doctor gave her pratique.

Q. That was that morning? A. That morning.

(Testimony of Isaiah Bray.)

Q. And as far as you remember, at that visit there were no vessels other than the "Huki Huki"?

A. The "Intrepid" was somewhere around.

Q. You remember that now?

A. I couldn't say whether she was coming out or already there.

Q. You remember that she was *going* out?

A. We passed her.

Q. When was it that you observed this disturbance of the water that you said had a tendency to put the "Celtic Chief" farther aground, caused by the towing vessels' propellers? You are again referring to your notes, are you?

A. That was December 7.

Q. The next day? A. Yes.

Q. Will you kindly show me your notes on that?
(Witness hands book to Mr. Olson.)

Q. Does this entry on Tuesday, December 7, on your book of notes show that you went out to the "Celtic Chief" that day, on the 7th?

A. No, we didn't go out to her at all.

Q. When was it that you went out there, that you noticed this disturbance?

A. I noticed it from the shore and I noticed it particularly on Wednesday, December 8, four-five P. M. To the "Celtic Chief" with Dr. James, Mr. ———, Mr. Gibson, Captain Johnson, and Mr. Rod-erick. The two latter of them went on board.

[1212—368]

Q. Now, Captain, when you went out that afternoon, what vessels do you remember were towing on the "Celtic Chief" then?

(Testimony of Isaiah Bray.)

A. I think all those that were towing the previous afternoon and, I think, the "Mauna Kea" had gone out there.

Q. Do you know whether or not the German cruiser, "Arcona," was out there?

A. I think not that day. German cruiser pulling on "Celtic Chief," December 8, Wednesday, December 8, she was pulling.

Q. Now, was she near to these vessels that you observed turning up the water that caused this cata-ract that you spoke of? A. Yes.

Q. She was working her propeller?

A. Yes, sometimes. If I remember correctly, they were stopping some of the time.

Q. You're sure, are you, that you saw the "Arcona" turning up water at her stern with the propeller? A. Sure.

Q. You are sure of that, positive that you saw her moving with her propeller? A. Yes.

Q. Between four and six o'clock?

A. Four and five.

Q. Was it your observation that she was pulling on her lines by means of her propeller? A. Yes.

Q. You are sure of that? A. Yes.

Q. Sure she didn't have an anchor ahead and was heaving in on that anchor?

A. She had an anchor ahead.

Q. When you left there she had an anchor out ahead and was heaving in on that?

A. I think she was.

Q. And not by means of her propeller?

[1213—369] A. Both.

(Testimony of Isaiah Bray.)

Q. Are you positive now about her turning up water by her propeller? Are you prepared to testify that she was turning up water with her propeller?

A. I am not prepared to testify definitely any more than what the steamers were doing.

Q. But you did observe that there was a considerable cataract or back flow of water on account of the propellers of the towing boats?

A. I couldn't help that.

Q. How far from the "Celtic Chief" were these various vessels as they lay there towing?

A. Various distances.

Q. Approximately?

A. Possibly a hundred feet or more; more or less.

Q. Do you think they were as near to the "Celtic Chief" as a hundred feet?

A. Some were nearer than the others.

Q. The farthest one?

A. I don't remember those particulars. I had a boat of my own to tend to.

Q. You think there were approximately a hundred feet? A. Might have been two hundred.

Q. Any more than two hundred?

A. I don't think so.

Q. The "Arcona" was off two hundred feet.

A. I think she was off farther than the others.

Q. How much farther?

A. Not a very great deal.

Q. Would you think two hundred and fifty feet was the limit? A. I can't say. [1214—370]

Q. Five hundred? A. Not over five hundred.

(Testimony of Isaiah Bray.)

Q. And the Inter-Island steamers were considerably nearer. A. Somewhat.

Q. In what position was the "Intrepid" towing with reference to the "Arcona" at that time?

A. I don't remember.

Q. Do you know whether she was towing?

A. All I can remember is what I've got down here.

Q. You have no idea whether or not the "Intrepid" was towing when you went out there the second time?

A. I wouldn't say she was. I think she was.

Q. What would be her distance from the "Celtic Chief"? A. I don't know.

Q. Now, these Inter-Island steamers that you speak of as being nearer to the "Celtic Chief" than the "Arcona," if the "Arcona" was not more than five hundred feet away, what would be the utmost limit that the Inter-Island steamers were away?

A. I don't think there was a hundred feet difference.

Q. Now, if, as a matter of *fact*, *were* using towing lines that were eight or nine hundred feet long and were using all of those lines, they would be more than five hundred feet, wouldn't they?

A. I don't think so.

Q. If they were, I say? A. Of course.

Q. Are you prepared to say that they were not eight or nine hundred feet away?

A. No, not prepared to say anything about it.

Q. Then your recollection is not very definite on that point? A. No, it's not.

Q. Do you think that this back flow of water

(Testimony of Isaiah Bray.)

would have the same tendency to put the "Celtic Chief" further aground if they were as much as eight or nine hundred feet away? [1215—371]

A. I don't think it would make much difference.

Q. You think there would still be that tendency?

A. It would run up to the shore, anyhow. It would have this more to give it more impetus.

Q. I'd like to have your testimony as definite as you can give it on this question, in your opinion, that these various steamers, as far as your recollection is concerned. Were they more nearly about one hundred or a hundred and fifty feet from the "Celtic Chief" as they were towing, or more nearly eight or nine hundred feet away from it?

A. I wouldn't think they were so far as that.

Q. But were they more nearly one hundred or one hundred and fifty or more nearly eight or nine hundred? A. I wouldn't give an opinion.

Q. You don't know how far they were away from the "Celtic Chief"?

A. I know they were not a great ways off.

Q. But you can't say at all whether it was one hundred or one hundred and fifty or eight or nine hundred?

A. I don't think it was eight or nine hundred.

Q. Would you say they were about one hundred or one hundred and fifty? A. Rough guess.

Q. That was your impression? A. Yes.

Q. That is now your impression? A. Certainly.

Q. When you say it is about one hundred or one

(Testimony of Isaiah Bray.)

hundred and fifty, you don't mean that it might be five hundred?

A. I don't mean anything of the kind. I don't pretend to know.

Q. You're a seafaring man, aren't you, Captain, of many years' experience? A. Yes.

Q. You are familiar with hawsers? [1216—372]

A. Yes.

Q. You are familiar with the size and the comparative size of these various Inter-Island steamers?

A. Yes.

Q. Knew the "Intrepid" very well? A. Yes.

Q. And you know there were several vessels that were towing on the "Celtic Chief" on the second time you went there? A. Yes.

Q. Yet you are willing to say that three or four vessels were all of them towing on the "Celtic Chief" a hundred feet away? A. More or less.

Q. Don't you know, Captain, that it is a practical impossibility for three or four vessels to pull so close together?

A. Couldn't state how much I think it was.

Q. You said one hundred or one hundred and fifty feet. A. I guessed at it.

Q. Don't you know that it is a practical impossibility for three or four tug-towing vessels to lie so close together? A. No.

Q. You don't know that that's a fact? A. No.

Q. You think it's perfectly safe for them to do that, vessels of the character of the "Likelike," "Iwalani," "Mauna Kea" and "Mikahala" and the "Arcona"? A. Yes.

(Testimony of Isaiah Bray.)

Q. There was no danger?

A. As long as they were kept from striking together.

Q. How far would they have to be?

A. They were separated.

Q. How far?

A. They were not all pulling [1217—373] on the "Celtic Chief."

Q. Ten or fifteen feet apart? A. Yes.

Q. It would be a safe distance?

A. It would depend on who had charge.

Q. Would it be with a prudent man in charge?

A. Yes.

Q. Even though they were causing this disturbance by the use of their propellers?

A. How could they make any trouble?

Q. I'm asking whether or not it was a safe maneuver? A. I think it was.

Q. Even though they were some small distance apart? A. They were.

Q. Ten or fifteen feet?

A. Inches as good as a mile.

Q. An inch would be sufficient? A. No.

Q. Why do you say an inch is as good as a mile?

A. As far as coming together.

Tuesday, August 15, 1911.

Q. Were you out to the "Celtic Chief" more than twice during the time that she was aground?

A. Didn't go out specially, we were out there three times.

Q. Two times the first day? A. Yes.

Q. Having called first with the quarantine officer

(Testimony of Isaiah Bray.)

and having found that they were all busy, you went on out to the other vessels in the harbor, came back in an hour or so to the "Celtic Chief" when she was given pratique, and then returned to the quarantine wharf and you did not return to the "Celtic Chief" until two days later on Wednesday between four and five o'clock? A. Yes.

Q. Did you go to the "Celtic Chief" at any other time than those three times?

A. No. [1218—374]

Q. Did you observe the Miller anchor line?

A. I did. I observed that she had a line out.

Q. Do you know, could you see the anchor buoy?

A. Don't remember seeing any buoy.

Q. How do you know they had an anchor out?

A. I saw a line attached to something out there.

Q. How do you know it was attached to an anchor?

A. Common sense told me that it was attached to something there.

Q. How do you know it was the Miller anchor?

A. I knew what I was told, that's all.

Q. Did you observe what kind of a line it was, this Miller anchor line?

A. A large wire rope, as I remember.

Q. Wasn't a manilla hawser? A. No.

Q. Where was it attached to the "Celtic Chief"?

A. I couldn't tell you that definitely.

Q. Well, have you any present idea? A. No.

Q. You don't know? A. No.

Q. You don't know whether it was to starboard, to port, or astern?

(Testimony of Isaiah Bray.)

A. I couldn't say definitely. I didn't take particular notice of it.

Q. You didn't take particular notice of the line at all?

A. I took particular notice that they had a line out and were heaving on it by windlass or capstan.

Q. Were you aboard the "Celtic Chief"?

A. No.

Q. Did you observe that they were heaving on it?

A. Yes.

Q. Where were you when you made this observation?

A. On board the launch "Oahu," on board the quarantine wharf.

Q. Did you ever leave the launch? A. No.

Q. Where was the launch "Oahu" while you observed what was [1219—375] going on there?

A. A short distance away from the ship.

Q. How far?

A. Well, we were working around in different positions keeping out of the current all we could.

Q. You were not alongside of her?

A. We went alongside and put the doctor on board and we went alongside on Wednesday to put Captain Johnson and Mr. ——— aboard.

Q. I'm speaking of Wednesday now. You didn't observe the Miller anchor, did you, on Monday?

A. I don't remember that I did.

Q. What I want to get at is, Captain, where were you when you saw, where was the launch lying when you saw that they were working the tackle on board the "Celtic Chief" for the purpose of heaving in on

(Testimony of Isaiah Bray.)

Miller anchor line?

A. We were maneuvering around.

Q. Can you give any idea how far you were from the vessel?

A. Various distances. We would drift astern then we'd have to come around and get into position again.

Q. Would you go as far as fifty or a hundred feet away from the "Celtic Chief"? A. At times.

Q. Farther than that? A. I don't think so.

Q. Farther than fifty feet? A. Yes, at times.

Q. Betwen fifty and a hundred?

A. I should say so.

Q. And you would come close again? A. Yes.

Q. You could see plainly that they were heaving in on this tackle, could you? A. I could.

Q. Notwithstanding the fact that she stood about twenty feet above the water line and had her bulwarks about thirty or forty feet above the main deck, you could see that plainly? A. Yes.

Q. Where on the deck were these tackles rigged?
[1220—376]

A. I couldn't say definitely. I saw them stretched fore and aft.

Q. Did you observe what kind of tackle it was?

A. No, not particularly.

Q. Were they using the winch for the purpose of heaving on it? A. Yes.

Q. Using the steam winch?

A. I couldn't say whether it was the winch or the capstan.

Q. You don't know which it was? A. No.

(Testimony of Isaiah Bray.)

Q. So you don't know the motive power they used for the purpose of heaving in on that tackle?

A. I can't say.

Q. How do you know *there* were even heaving in?

A. I could see them at work. I could see the strain on the line.

Q. You could tell from that they were heaving in?

A. Yes.

Q. You could tell by that?

A. I could tell by the lines.

Q. There would be a good deal of difference in observing the motive power between the two if it were on one or the other, the capstan or the winch?

A. Not much.

Q. What did you see these people doing?

A. I couldn't say that I saw them doing anything definitely only the lines that they were moving around, they were naturally engaged in some kind of work.

Q. How do you know they were working on the tackles? A. I could tell by the line.

Q. The line where?

A. Out astern, the motion of it.

Q. Because it was working up and down?

A. There was more or less agitation to it.

Q. I think you testified, Captain, that there was some slight motion to the vessel itself?

A. Slight motion, yes. [1221—377]

Q. Caused by this back flow from the propellers of the various vessels?

A. I couldn't say whether it was caused by that or strain on the line or what did it. Very likely it

(Testimony of Isaiah Bray.)

was the motion before the vessel was coming off somewhat.

Q. Visible motion?

A. Enough to be noticeable.

Q. How do you know that this strain was not caused by this motion of the vessel?

A. Well, it is possible that it might have had something to do with it.

Q. Isn't it possible that it might have had everything to do with it? A. I don't think so.

Q. How do you know? A. I don't know.

Q. Why do you say that you don't think so?

A. That is, well, I think the heaving. I don't know as it would make any particular difference. It might have been the swell or the confusion of the water.

Q. Then you don't know as a matter of fact, whether or not they were heaving in on that line?

A. I couldn't say that they were heaving. They were engaged doing something.

Q. Doing something on board the vessel.

A. Yes.

Q. You don't know whether they were working with the tackles?

A. Yes, I am convinced they were.

Q. I'll ask you, Captain, why you are convinced or why you think that they were working on the tackles when you didn't see them?

A. I could judge by the lines.

Q. Yet you say, Captain, that might have been caused by the motion of the vessel itself in the swell, it might be the back flow from the propellers of

(Testimony of Isaiah Bray.)

these various vessels? A. Possibly.

Q. So that you can't say that you have any reason for your belief that they were actually heaving in on that line?

A. Well, I had this reason, and some men see things that other men cannot, and from all the motions and actions that was taking [1222—378] place there, I seen that they were heaving in. I am perfectly convinced that they were from the maneuvers.

Q. What were those, Captain?

A. As if they were engaged in shifting tackles and doing things of that kind.

Q. And yet you don't know whether the motive power exercised upon the tackles was the steam winch or the capstan?

A. I couldn't say that.

Q. Then if you don't know that there was any motive power being exercised to the tackles, you don't know, do you, Captain, whether or not they were actually exercising any motive power whatever?

A. I think the line astern indicated that there was a tremendous strain on it.

Q. But, Captain, you have stated, have you not, that that strain might have been caused by the motion of the vessel?

A. Possibly, and yet the vessel might have moved through that strain.

Q. In other words, it might be one or the other, so far as your knowledge is concerned?

A. Yes.

Q. Then, the fact of the matter is, Captain, you

(Testimony of Isaiah Bray.)

don't know whether or not there was any heaving in on that line at all. It is merely a surmise on your part?

A. I might say it was, although I am convinced they were heaving in.

Q. Simply because of the condition of the lines?

A. No, from all the motions that I saw.

Q. You don't know whether those were on the tackles or some other motions?

A. I am pretty sure.

Q. Why?

A. Because there was nothing else doing on board.

Q. How do you know?

A. Nothing that I could see from the deck of the launch.

Q. But there might have been something that you [1223—379] couldn't see from the deck of the launch? A. Possibly.

Q. You say that the Miller anchor line had some motion, you could see that there was plainly some strain upon it? A. Yes.

Q. I take it you mean by that it would get a strain taut again and that sort of thing?

A. Which indicated—

Q. I'm not asking you what it indicated, but if it would.

A. No, it did nothing of the kind; it was simply agitated more or less; there was no giving. It was not a steady strain.

Q. Notwithstanding the fact that the vessel was moving more or less there was no giving of that line?

A. I saw the line was agitated more or less.

(Testimony of Isaiah Bray.)

Q. Did it give or didn't it give even though the vessel was moving more or less?

A. I didn't notice those things particularly. I simply observed the lines and they indicated to me it was being heaved in and had a severe strain on it.

Q. It might have given more or less as the vessel swung one way or the other as far as your observation went? A. It might have been.

Q. There was no upward and downward motion of the stern at all?

A. No, I couldn't say there was. You must remember that I had my own boat to tend to and we swung more or less and all I observed was merely casually.

Q. As a matter of fact, you were so busily engaged in your launch that you didn't take any particular notice of what was going on about the vessel?

A. Well, more or less.

Q. Yet you noted carefully, did you, that the Miller Salvage line had a tremendous strain?
[1224—380]

A. I noticed that particularly.

Q. Yet you say, Captain, that it might have been due to some other cause than heaving in?

A. I think the agitation might have been aided a little by motion of the roll of the vessel, but my experience would tell me at once that there was a severe strain being exercised and that it was being pulled on.

Q. Did you observe that the "Celtic Chief" was coming off somewhat?

A. I didn't observe that.

(Testimony of Isaiah Bray.)

Q. Did you observe that she was actually influenced in any way by this strain?

A. No, not that I know of. I should say that she was certainly held.

Q. Now, would you be prepared to say, Captain, that there was a heaving in on this line, actual heaving in on this line even though one of the men actively engaged in connection with the tackles about that, on the "Celtic Chief" had testified in this case that there was no heaving in on that line at that time of the day?

A. No, I wouldn't say anything of the kind.

Q. So that you are, when you say you believe they were heaving in that is merely a surmise on your part?

A. That's a surmise from my long experience in that kind of work.

Q. And it's quite possible that they were not heaving?

A. They might have been moving to stop and fleet the tackle.

Q. It's quite possible that they might not have been heaving during the time?

A. Possible. They were surely engaged on that tackle.

Q. And yet not been heaving in on that tackle?

A. There is a dozen of things they might have been doing.

Q. When you assert that they were actually heaving in on that line—I want to find out whether or not they were heaving in on that line?

A. I haven't said that they were heaving in.

(Testimony of Isaiah Bray.)

Q. Oh, you don't say they were heaving in.

A. I have not. [1225—381]

Q. I'm asking you do you say they were?

A. I say the impression that I have is that they were.

Q. They might not have been?

A. Possibly not. I was very much deceived if they weren't.

Q. All these other towing vessels were pulling hard, were they? A. Apparently.

Q. At that time, judging from the way that they were turning up the water astern, with their propellers, would you say that they were all of them going full speed? A. I should judge they were.

Q. Including the "Arcona"?

A. Yes, sir, I think they were. I think they were doing their best.

Q. Did they appear to have a strain on their hawsers? A. I think so.

Q. They did have strain on their hawsers?

A. Yes.

Q. What did you mean when you said you think so?

A. If they were going ahead they must have had strain on it.

Q. You saw the lines? A. Yes.

Q. What was the condition of those various lines with reference to their being taut or not?

A. They didn't seem to be as steady, if I remember right, as the anchor line.

Q. They were not?

A. The motion of the two vessels would tend to

(Testimony of Isaiah Bray.)

give them more motion.

Q. That is, at times there would come up straight and then into a bight? A. Yes.

Q. They came out of the water, however?

A. Yes.

Q. Sometimes touched the water?

A. I think they did touch the water sometimes.

Q. But ordinarily they would be pretty well out?

A. Yes. [1226—382]

Q. Do you think that's a possibility with a vessel of the size of the "Mikahala" if she had several feet of hawser between her and the "Celtic Chief"?

A. Depends on the size and weight of the hawser.

Q. Well, let's take the "Helene." You know the "Helene," do you not? A. Yes.

Q. Assume that she had seven, eight, or nine hundred feet of hawser between herself and the "Celtic Chief" of either eight or twelve-inch dimension, do you think that it's possible for a vessel of the power of the "Helene" to keep that hawser out of the water most of the time? A. I should think so.

Q. Have you had any experience in towing?

A. Not particularly; no.

Q. You don't know much about it. So, as a matter of fact you don't know whether a vessel might be able to keep a line of that size and that distance away out of the water most of the time?

A. I think it is very possible that she could.

Q. You think it is quite possible? A. Yes.

Q. Was there any lightering going on at the time you were out there, lightering of cargo?

A. I think there was on the Wednesday.

(Testimony of Isaiah Bray.)

Q. On Wednesday you think there was cargo being discharged from the "Celtic Chief" into other vessels?

A. I know there was at some time. I think it was on Wednesday.

Q. Well, might not that account for the activity that you observed aboard the "Celtic Chief"?

A. It might have added to the activities.

Q. Might have accounted for it?

A. No, I can't be made to believe that there wasn't work going [1227—383] on at that hawser as far as my own mind was concerned whatever else was being done.

Q. Do you know who was doing that lightering of cargo? A. I do not.

Q. Small boats or large boats?

A. I think it was small boats; ships,' steamers' boats. I'm not positive about that. I don't know but there was a larger boat on the starboard side.

Mr. OLSON.—That's all.

Cross-examination of ISAIAH BRAY on Behalf of
Libellants Inter-Island Steam Navigation Co.
and Matson Navigation Co.

Mr. WARREN.—Q. Captain, in referring to the "Mikahala" and her anchor chains, you were asked about how long a chain you observe in front of the "Mikahala" and you said six or ten fathoms. Now, what did you mean by that? Six or ten fathoms observable above water? A. Yes.

Q. And as far as you could observe there was more chain below water? A. Yes.

Q. And how was that chain bearing, at approxi-

(Testimony of Isaiah Bray.)

mately what angle?

A. Appeared to be directly ahead of the boats.

Q. And what was its appearance as to whether it was taut or not? A. Seemed to be taut.

Q. Appeared to be straight?

A. There was some stirring of the vessel as they were pulling and working at their anchors at the same time.

Q. And is it possible, as a matter of fact, for an anchor chain to be perfectly straight, to be drawn perfectly straight?

A. It would depend a great deal on circumstances in wind and sea. If it was windy—in port with a strain on it it might be kept almost straight.

Q. About what size do you think the "Mikahala" anchor line was, chain?

A. Her cable? [1228—384]

Q. No, her anchor chain out forward?

A. Well, that's her cable; possibly two-inch cable.

Q. What's that? A. Possibly a two-inch cable.

Q. Was it a cable or a chain? A. Cable.

Q. Out forward? A. Chain cable.

Q. Of links? A. Yes.

Q. Now, in testifying regarding the "Arcona" lines from the "Arcona" to the "Celtic Chief," you used the term engine as exerting power upon her anchor lines, by what kind of an engine did you mean? A. Gasoline power on her anchor-chain.

Q. Didn't you say that she was heaving on her anchor-chain, the "Arcona"?

A. I presume it would be natural for her to be taking in any slack or keeping it as taut as possible

(Testimony of Isaiah Bray.)

all the time that she was trying to forge ahead.

Q. You referred to an engine, did you not?

A. I don't remember.

Q. The question was put to you as to what kind, as to the engine or the power of the engine of the "Arcona" which was exerting a strain on the anchor line? A. In that case I'd mean her main engine.

Q. Do you mean the ship's engine?

A. Ship's engine.

Q. Operating her propeller? A. Yes.

Q. You don't mean the engine on deck?

A. No.

Q. And you observed that her propeller was going on Wednesday afternoon between four and five when you were there? A. Yes, I think so, yes.

Q. And she was doing her part of keeping up that current? A. A good part of it.

Q. When you spoke of having difficulty on the first, on Monday getting aboard, getting up to her, was that, did that current [1229—385] have anything to do with it on Monday?

A. Monday, I think Monday morning I had been there and I was working carefully to watch that I didn't get into any shoal water and then in the afternoon there was more or less confusion from the boats.

Q. Did you notice any? A. Did I notice any?

Q. Did you notice any current from the propellers of the steamers that were pulling on Monday morning? A. I don't remember that I did.

Q. What would be the difficulty then, or the danger of going ashore yourself?

A. I'd have to find out first how much the ship was

(Testimony of Isaiah Bray.)

drawing, then I could judge somewhat of the depth of water about her.

Q. Well, did you take any soundings?

A. I believe we did; I couldn't say positively.

Q. You wouldn't have noted them down, if you had?

A. No, we simply have a little lead line.

Q. You said you had to be careful in going up there to see if there was water enough?

A. I was careful.

Q. What did you do to satisfy yourself that it was possible for you to go there with safety with your vessel?

A. I think we must have used the lead.

Q. Have you any idea of the results were in using that line?

A. I don't remember the depths particularly. I know that we did, that there was water enough for the launch to go alongside of the "Celtic Chief."

Q. Have you any idea at all of about how much water there was there, whether it was five feet or ten feet or twenty feet?

A. Yes, it varied more or less as we got in nearer. Perhaps you might say from eighteen feet to twenty or twenty-five.

Q. It might have been twenty-five feet deep?

A. Yes.

Q. Do you know the draught of the "Celtic Chief"? A. I do not. [1230—386]

Q. That is twenty-five feet right where the "Celtic Chief" lay?

A. Well, there was more depth at her stern than at her bow.

(Testimony of Isaiah Bray.)

Q. How much do you think?

A. Between one and two feet or so.

Q. You think that's about the difference there was between the stern and the bow?

A. As near as I can guess.

Q. Were you just judging from appearance or were you using a line?

A. Judging more from appearance than anything.

Q. Was that the appearance which would enable you to assume a difference of one or two feet from the bow to the stern?

A. One of the indications would be that the bow of the "Celtic Chief" would be higher out of the water.

Q. You observed that by the water line?

A. Incline of the vessel, of the bow to the stern.

Q. Was the water line of the vessel above the water?

A. Her bow was—I don't remember about the stern.

Q. You think there was really only about one or two feet difference from bow to stern?

A. As I remember it, her bow seemed to be a matter of two feet, or three feet above the water.

Q. Would not really drop the water line of the stern two or three feet below?

A. It wouldn't go any farther than the bottom there unless she made a bed for herself.

Q. You don't know how far below water the water line of the "Celtic Chief" was at the stern?

A. I don't know.

Q. Not even approximately? A. No.

(Testimony of Isaiah Bray.)

Q. Was the water clear enough for you to estimate the depth by looking down into the water?

A. I believe not. I think it was well clouded up. If it had been clear I don't think we would have taken any soundings as I think we did because I can estimate the depth very [1231—387] readily in clear water.

Q. Did you have any difficulty in taking soundings? A. No difficulty.

Q. Would the line go straight down or did this current wash it off? Would your plumb line go down, or would it be washed aside by this current?

A. Not in the morning; there wasn't much current.

Q. Now, you've told us how the "Morning Star," "Morning Star No. 1," was it, that went ashore seven or eight times? A. Yes, sir.

Q. And what kind of shore or shoals would she, did she ground on?

A. More or less on what they called down there horse-heads, shoals that come up all the way from a foot above water to five or six feet below water; perhaps they'd be all the way from half an acre to eight or ten acres in circumference.

Q. That is, she would not run up on the beach, would she?

A. Yes, very much like this place at one time.

Q. Like the "Celtic Chief"? A. Yes.

Q. Is that the time that you got her off by using the propeller?

A. She had no propeller, that vessel.

Q. Were there any other times that you ran up on

(Testimony of Isaiah Bray.)

the beach or were the rest of them confined to these shoals that you speak of?

A. Mostly to the shoals.

Q. Now, when you got on these shoals, varying in depths I suppose? A. Yes.

Q. And were there any other occasions at all anything like the grounding of the "Celtic Chief"?

A. I don't remember nothing.

Q. Did you ever get off these shoals by the aid of rising tide?

A. We used to take advantage of the rising tide to heave off.

Q. And get off without difficulty. [1232—388]

A. No, not at all; sometimes we had a good deal of difficulty.

Q. Aside from a certain amount of work you got off safely with your vessel?

A. Well, sometimes there was more or less damage to the bottom; very apt to get some copper scraped off; sometimes the planking would come off the bottom.

Q. Was that as serious damage as you had?

A. It was so serious that we turned right back for Honolulu and we were pumping with all pumps and the worms had got in.

Q. What was that from?

A. Grounding on the reef, scraping the copper off and making an entrance for the worms.

Q. If your bottom had not got grounded then there wouldn't have been sufficient to put you in that danger? A. No.

Q. I'd like to ask you the distance of these

(Testimony of Isaiah Bray.)

steamers from the "Celtic Chief." You have said in the neighborhood of 150 feet; you don't think it was more or less?

A. What was the length of the "Celtic Chief"?

Q. I'll ask you first what do you think her length was by observing her?

A. I should say in the neighborhood of two hundred feet, more or less, possibly a little more.

Q. You think she was not any less than two hundred feet any way? A. I should think not.

Q. If these steamers were within one hundred feet, or within 200 feet, they would have been within her own length of her?

A. That's what I was thinking of.

Q. And you think that these steamers pulling on her were no further from her than her own length?

A. That's what I wanted to get some judgment of her length for.

Q. The pulling distance and her own length you think were about the same?

A. No, they were further away.

Q. And if you are told that the length of the "Celtic Chief" was 266 feet and a fraction then you would say that the steamers [1233—389] were further away than that? A. Yes.

Q. How much further, twice her length?

A. I think so.

Q. Might have been more than that?

A. I can't judge only by the length of the ship, as I remember.

Q. Twice her length would be 532 and you don't think it could be that much?

(Testimony of Isaiah Bray.)

A. It don't appear so from a glance, still I should think likely it may have been.

Q. So that when you are informed of the length of the "Celtic Chief," then you believe that these steamers pulling were at least double her own length away from her? A. I think they must have been.

Q. Would you say they were more than that or less than that?

A. I couldn't say; that is a rough estimate.

Q. This estimate from 100 to 150 feet was a rough estimate? A. Yes.

Q. Now, is this any closer than that?

A. I hadn't considered her length then. Judging from her length I should think the latter would be nearer.

Q. So you are really not prepared to say what distance they were pulling away from her? A. No.

Q. And you would not be surprised if the fact were the distance was a thousand feet?

A. I think it was not.

Q. At the same time it would be possible?

A. I don't think when I saw it—

Mr. MAGOON.—This matter is covered over and over and it is a waste of time and taking down a valuable transcript here.

The COURT.—Objection overruled at this time.

Q. You don't think so but still it might be possible?

Mr. MAGOON.—That's answered; that very same question; he answered it, the last answer. I object to it.

The COURT.—Objection overruled.

(Testimony of Isaiah Bray.)

A. I wouldn't say it was impossible.

Q. You wouldn't say it was impossible? [1234—
390]

A. No. I first did not want to answer.

Q. It is difficult to judge distances on the water, isn't it, Captain? A. In some instances.

Q. Deceptive. Things usually look closer than they really are, don't they?

A. Yes, no doubt about that.

Q. What do you think is the length of this room, Captain? A. Forty-five feet, perhaps.

Q. Now, as to your observations of the men at work on board the "Celtic Chief" on Wednesday afternoon when you were there between four and five. If they were operating a capstan that would be quite visible, wouldn't it, from your position?

A. I think it would.

Q. You would necessarily see the men walking around the capstan with bars? A. Yes.

Q. You didn't see that?

A. Not that I remember.

Q. What's that? A. Not that I remember.

Q. Well, if that had been the case would that explain your statement that they were working on the line, heaving on Miller's anchor line?

A. It is possible that while I was there they might have been at the tackles but doing something else at the time and not heaving.

Q. Do you think it is possible that they didn't do any heaving at all while you were there?

A. I didn't notice any capstan heaving.

Q. If they were using the winch, could you have

(Testimony of Isaiah Bray.)

observed that from where you were?

A. I think I could have if I had got up on deck. My position on the deck is down under the deck, that is, about three feet; if I want to see anything better I get up on the deck.

Q. Did you do that at any time?

A. I think I did if I remember right.

Mr. WARREN.—I think that's all.

Redirect Examination of ISAIAH BRAY. [1235—
391]

Mr. WEAVER.—Q. You say you got up on the deck of the boat; what deck do you refer to—the main deck? A. There is only one deck.

Q. Describe the launch.

A. Well, she's a boat with a guard around her covered with ribbed canvas top.

Q. And how high is this top from the water?

A. Possibly two feet, two feet and a half.

Mr. WEAVER.—That's all.

Mr. MAGOON.—The captain wishes to clear up one matter about the going on of the "Celtic Chief," with the consent of the Court.

The COURT.—That's always allowed.

Mr. MAGOON.—You may go ahead and say what you have to say about that.

The WITNESS.—I've been very much confused from this talk of seeing the "Celtic Chief" come up and pass us and go on the reef, and in looking over my log-books I find, September the 20th, 1907, between six-fifteen to eight forty-five A. M. of that Tuesday, going to the ship "Siberia," ship "American," ship "Rosecrans," ship "Celtic Chief" came

(Testimony of Isaiah Bray.)

sailing up on her previous visit and passed us, and it is this that has confused me in regard to the time of her coming up and going on the reef. She was here about two years before this last occasion and came up while we were outside there and that had confused me in regard to this later case.

Q. Have you got your book here that you made the memoranda of the "Celtic Chief"? The one that you spoke of in evidence on cross-examination, is this the same book? A. Yes.

Q. May I have it, please?

Q. I understand, Captain, that you refresh your memory from this book here with reference to the memoranda that you made at the time of the "Celtic Chief" in your testimony on cross-examination?

A. Yes.

Q. From refreshing your memory from this book, I ask you with reference to whether you observed, whether or not you observed [1236—392] that the vessel went further in shore, the "Celtic Chief" went further in shore after the Miller anchor was made fast to it and the strain obtained?

Mr. WARREN.—I think it's improper redirect, your Honor.

Mr. OLSON.—I make the same objection.

Mr. STANLEY.—And also on the ground it is leading.

The COURT.—I will not rule on the question on the ground whether it is redirect or not. I will allow it to go over that objection.

Mr. STANLEY.—We object to it on the first ground it is leading; in the second place, there is no

(Testimony of Isaiah Bray.)

foundation shown that the witness needs to have his memory refreshed on the subject.

Mr. OLSON.—I'll add the additional objection that counsel has as attempting to put in evidence a self-serving declaration and he is not entitled to do so.

The COURT.—If you want to put this book in or use the book, you may do it on direct examination. If you show to me a proper question on direct examination, you may have that testimony and then let the others cross-examine on it.

Q. From your recollection can you say as to the effort exerted by the Miller Salvage anchor on the "Celtic Chief" after it was attached to the "Celtic Chief" with reference to going further ashore of the "Celtic Chief"?

Mr. OLSON.—I object to the question on that ground that the witness is not qualified to answer.

The COURT.—I don't think that's quite the question. Mr. Magoon asked a question in substance as to this, what your observation was with regard to the "Celtic Chief's" going further in shore or not after the Miller anchor line was fast.

Mr. MAGOON.—I would like to add to that, between four and five on Wednesday.

Mr. WARREN.—We object to it as leading.

Mr. OLSON.—I object to it as leading.

A. Watching from quarantine wharf, I didn't notice that the ship went in farther on after the first day she was there. [1237—393] On Wednesday, when I was out there taking Captain Johnson and the doctors, I made a note that Miller's anchor was saving every inch.

(Testimony of Isaiah Bray.)

Mr. OLSON.—I object to that and move that it be stricken from the record.

Mr. MAGOON.—We won't object to have that stricken at all, that portion of the answer referring to the taking out of Captain Johnson.

The COURT.—That portion of the answer referring to the taking out of Captain Johnson is stricken out.

Mr. MAGOON.—That's all.

Recross.

Mr. STANLEY.—Q. Now, then, Captain Bray, you have explained why it was that you have testified some days ago that you saw the "Celtic Chief" on the morning of December, that is, this Monday morning, come in the harbor and go aground. You now wish to say, as I understand it, that the "Celtic Chief" made a former visit. Did you also see her go aground at that time? A. No.

Q. Why did you testify on direct examination that you saw her go aground?

A. I had the occasions confused.

Q. This former occasion was she came in like a crazy man was on her. She didn't go aground?

A. No.

Q. What reason have you for saying she came in like a crazy man was on her?

A. Because she came with so much sail on and running at such a rate.

Q. Well, now, then, what do you mean when you say that you possibly confused the "Celtic Chief" with the ——?

A. Well, there's the three. I'm visiting perhaps

(Testimony of Isaiah Bray.)

six or seven hundred vessels in a year, going out to them and I can't always remember about each.

[1238—394]

Q. Did you, as I requested you to do, Captain, refresh your memory from your log-book about this ——— or vessel? A. I haven't had time.

Q. I asked you to do that.

A. Well, I have other business to attend to. I have got to go through about a dozen log-books.

Q. I wish you would find that and when you have done so appear in court. Will the Court kindly instruct the witness to do this?

Mr. WEAVER.—If the Court please, it seems to me that is an immaterial issue.

The COURT.—I think it's only fair if you will do that, Captain.

Mr. OLSON.—Bring the log-book that you have the entry in.

Mr. WARREN.—I'd like to ask you, Captain, you intend by making the explanation this morning that you confused this trip of the "Celtic Chief" with the trip that she made two years ago?

A. Yes, partly.

Q. Rather than your explanation of yesterday that you confused the "Celtic Chief" with the ——— or some other vessel which went ashore?

A. Well, there's three. I am more or less confused because all of the three I'm no more clear on this ——— or whatever her name was, because I say it's impossible for me to remember the movements of all of the various vessels I'm visiting.

Q. This other vessel, ———, or whatever it's name

(Testimony of Isaiah Bray.)

may have been, was stranded in the same approximate location?

A. I have an idea of a vessel that was ashore there under similar circumstances and was pulled off. Now, that is all I can say about that without having my memory refreshed.

Q. How many vessels have gone ashore in that vicinity in the past five years while you've been in the launch service?

A. There was a Japanese steamer, one other on the starboard side.

Q. I mean sailing vessels in this vicinity? [1239—395]

A. The "Celtic Chief," in that vicinity?

Q. Yes, anywhere near it?

A. The other one that I have in mind is all that have been ashore there.

Q. That's within the past five years?

A. I would not say that.

Q. During your service on the launch?

A. I wouldn't say that.

Q. How could you have any entry in your log if you were not in the service at the time?

A. I would not have it, before I was in the service, it might have occurred while I was at the Sailors' Home.

Q. Well, I understood you to say on your earlier testimony, you have since looked it up, that this ship came sailing up and you saw her go ashore. Now, if you were superintendent of the home do you think that you will still say that you saw that vessel go ashore? A. No.

Q. Then, in testifying the other day that you saw

(Testimony of Isaiah Bray.)

the vessel go ashore there, it couldn't have been the "Celtic Chief" at all?

A. I'm not clear on that point yet. I am inclined to believe that I saw that ship go ashore about daylight in the morning.

Q. The "Celtic Chief" on this occasion?

A. Yes, I cannot disengage my mind of that belief.

[Testimony of Tom Mason, for Libellant.]

Direct examination of TOM MASON, a witness called on behalf of libellant Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—Q. What's your name?

A. Sir?

Q. What's your name? A. Tom Mason.

Q. How old are you? A. Fifty-two.

Q. What business are you in now?

A. Working for Captain Miller. [1240—396]

Q. What did you do?

A. Sailor—common sailor.

Q. What else have you done through your life?

A. Working around the waterfront.

Q. What is your business in general? What has been your business? A. All kinds.

Q. What? A. All kinds.

Q. Tell about it. A. Stevedore, sailorizing.

Q. Anything else? A. That's all.

Q. In sailorizing, what do you include? What kind of work? A. Sailor.

Q. What else have you done besides sailor work?

A. Rigging.

Q. Have you done any special kind of rigging? If so, what?

(Testimony of Tom Mason.)

A. Just common rigging. I'm working around the waterfront stevedore.

Q. You speak of rigging; is there any particular kind of rigging you've done before?

A. There's all kinds of work in rigging, you know; splicing.

Q. Have you done any of that kind of work for Miller Salvage Company? A. Yes.

Q. Where did you do that work?

A. On the "Celtic Chief."

Q. Have you been—what kind of sailorizing have you done, as you call it? What have you done as a sailor? You said common sailor; have you done anything else?

A. I worked on that day on the "Celtic Chief."

Q. No, before that had you done sailor work? What is your experience?

A. I worked for Wilder Steamship, sailorizing. That is, on the coast here.

Q. In what capacity?

A. I've been on big ships, merchant vessels; sailor.

Q. What position did you hold, if any, on these ships?

A. I was working for—I was on the old "Kilauea" as a mate.

Q. When was that?

A. That is long time ago. About ten or fifteen years ago. [1241—397]

Q. What mate? Any other boat? Any other boat you hold such a position? A. No, sir; that's all.

Q. Did you work on any other boats?

A. I worked on the schooners as a captain.

(Testimony of Tom Mason.)

Q. What schooner? A. "Kamoli."

Q. And how long were you on that schooner?

A. I was four trips.

Q. How long would that be, four trips?

A. Four months.

Q. The "Kilauea," how long were you on that?

A. I was two months on the "Kilauea."

Q. Any other boats, either sailing vessels or steamers? A. That's all.

Q. Do you know the "Likelike"?

A. I worked on her as a boat sailor.

Q. How long were you on her?

A. I was on her six years.

Q. How long were you on the "Kilauea"?

A. That is two months.

Q. And at other times when you were on other vessels how many years was your experience outside of those you speak of the "Kamoli," the "Kilauea," and the "Likelike"? A. Fifteen years in the sea.

Q. Fifteen years at sea. What were you doing at sea? A. Sailor.

Q. What capacity? Sailor means all the way from captain. A. My sailorizing is as sailor first.

Q. Tell us about it. Sailorizing, then what?

A. That is, common sailor, workman.

Q. How long were you common sailor out of the fifteen years? A. Say about fourteen years.

Q. And then when did you get your first raise?

A. I got my first raise when I came in the Islands here.

Q. On what ship?

A. That is on the "Kilauea."

(Testimony of Tom Mason.)

Q. And then after that?

A. Then Frank Cooke's boat. [1242—398]

Q. What was that?

A. That was on the ——— up to Hamakua.

Q. What were you there then?

A. I was the captain of it. Took her up to Hamakua.

Q. What is the ———? A. Schooner.

Q. Sailing schooner? A. Sailing schooner.

Q. How long were you captain of her?

A. Was there a month.

Q. From that boat what did you go on?

A. One they called the "Lavanier." They used to call the "Waiole."

Q. The "Lavanier." What work did you do on the "Lavanier"? What capacity did you work on her?

A. I was the captain of her for four months.

Q. Where did you go? A. Hamakua coast.

Q. What was she? A. Schooner.

Q. And in all this experience or while commanding any of these vessels, did you ever have any experience in salving? A. What?

Q. Did you have any experience while you were on these boats in salving, saving wrecked vessels?

A. I haven't done any saving, the salvage company does that.

Q. While you were sailorizing, as you called it, did you have any experience at all in salving vessels?

A. That's where I got my learning from.

Q. Tell what you mean.

A. From sailorizing, learns you how to splice rope,

(Testimony of Tom Mason.)

learns you to rig up tackles, heave gear rope up, heave wires. That's how the man gets the experience.

Q. Well, now, what—do you know about the “Celtic Chief” case? A. Yes.

Q. When did you first see the “Celtic Chief”? What time of the week, if you know?

A. Monday morning.

Q. That was about what year? About two years ago? [1243—399]

A. Year and a half or two years.

Q. About December, 1909? A. Yes.

Q. Monday morning. Under what circumstances did you see it?

A. When I came down on the wharf I see a vessel lying out there and I thought she was lying out in the anchor. It was kind of foggy and I walked farther down, I see a lot of people applying for a job for the vessel ashore.

Q. What vessel was that? A. “Celtic Chief.”

Q. What did you do, if anything, with regard to the “Celtic Chief”?

A. I looked for a job to go out.

Q. Who did you go to for a job?

A. Captain Miller.

Q. What was the result?

A. The result is he's got enough men.

Q. What? A. He had enough laborers.

Q. What happened to you then?

A. I stayed there like a fool on the wharf.

Q. What did you do next in regard to the “Celtic Chief,” if you didn't get a job?

(Testimony of Tom Mason.)

A. I didn't go out to the "Celtic Chief." I stayed on the wharf and *waiting for chance*.

Q. What was next done by you?

A. Next chance Captain Miller sent in to Dick.

Q. Who is Dick?

A. To pick up another gang for the "Kaimiloa." Then I had a chance.

Q. And went out on the "Kaimiloa"?

A. I went out on the "Kaimiloa."

Q. What did you do when you got out there?

A. I went out there as laborer.

Q. What did you do there?

A. Went alongside of the "Celtic Chief," tied her up there. Captain Miller says, "Get your gang aboard and get some of the fertilizer on your ship," Mr. Mason. I says, "All right." I got my gang. Worked double-gang. "Concord" on one side and me on the other.

Q. "Concord" on what side?

A. I was on the starboard side.

Q. You were in what vessel?

A. "Kaimiloa." [1244—400]

Q. "Concord" on the port side?

A. "Concord" on the starboard side, port side.

Q. What was being done there at that time when you got out there?

A. We start in to loading our ship, that's the "Kaimiloa."

Q. As a result of what Captain Miller said to you about fertilizer, what did you do?

A. Got my gang on her, got the freight out of her.

Q. You were acting in what capacity? Were you

(Testimony of Tom Mason.)

luna then—were you boss then?

A. I was kind of foreman.

Q. How many men did you have with you?

A. I had thirty-seven.

Q. Was there anybody else working there at that time for Captain Miller at that time that you got out there?

A. They had their own gang on the other side.

Q. That is, they—

A. That is Captain Miller's gang and Dick.

Q. By Dick you mean Dick Clarke?

A. Dick Clarke.

Q. How many men did he have?

A. I don't know.

Q. Can you say about how many?

A. I might say a little too much for him. He might have a hundred men because I haven't counted his men.

Q. What time of day did you go out there with your men? A. About ten o'clock.

Q. Then after you got out there, you had thirty-seven men there, and what were they doing?

A. They were working in the fertilizer.

Q. Taking it from where?

A. Taking it from the "Celtic Chief."

Q. And loaded it over the side into the "Kaimiloa?" A. Yes.

Q. What apparatus, if any, did you have?

A. Eh? [1245—401]

Q. What machinery did you have, if any?

A. We used our hand, that's our machinery.

Q. How long did that operation continue, if you

(Testimony of Tom Mason.)

know? A. Eh?

Q. How long was that work? How long did you keep it up? A. Kept it up all day.

Q. Did you stop for any purpose?

A. No stop at all.

Q. Ten o'clock in the morning to what time?

A. Ten o'clock in the morning before we got ready to half-past five.

Q. Then what happened?

A. Then we got towed in.

Q. Who towed you in? A. Gasolene boat.

Q. Who did it? A. "Elizabeth."

Q. Yes, and what did you do when you got ashore with regards to fertilizer?

A. Came ashore and we tied the "Kaimiloa" by the bullock pen, bullock wharf, at the Dillingham wharf.

Q. Then what did you do then?

A. Then we got on the gasolene, went on the ship again.

Q. You and who else went besides you?

A. Me and Frank.

Q. You mean Frank Lonche driving the "Elizabeth" engine.

Q. What became of the men that were together?

A. Myself and four men came along with me, the rest of the men was shifted over on the "Makee" then.

Q. You went off with the fertilizer and where were this gang of thirty-seven men?

A. Stopped down there. Stopped on board the ship and loaded the other ship.

(Testimony of Tom Mason.)

Q. They stopped on the "Celtic Chief"?

A. Yes.

Q. And you went back with the four men?

A. I went back with four men.

Q. When you went back what did you do?

[1246—402]

A. When we went back we went and load the "Makee" up.

Q. What did you load with?

A. Load it by hand; we had stages to the hatches.

Q. And how long did you—how long was it between the time you left to take the fertilizer to the wharf and the time you came back and started over again? A. Well, we was about three hours away.

Q. Then what did you do when you got back?

A. Went back, got aboard the "Celtic Chief." We started to load the "Makee."

Q. You yourself took part? A. Yes.

Q. And this—how long did you work there?

A. We worked there until next morning.

Q. What time? A. Well, about five o'clock.

Q. Then what did you do then?

A. Then we came ashore discharged the "Makee."

Q. And after you came ashore what did you do?

A. Came ashore and discharged the "Makee"; then we took in the cable. We unload the "Makee," then we took in the cable.

Q. Well, you took in the cable. Why did you take in the cable?

A. Take it by the steam winch of the "Makee."

Q. I say why did you take it? How did you hap-

(Testimony of Tom Mason.)

pen to take in the cable? What made you do so?

A. Captain Miller's orders.

Q. Captain Miller tell you to take in the cable, or did you yourself take it?

A. We took it. Captain Miller says he will go and get the anchors down. He says, "You see to things and remember to get all your big blocks and tackles." I did.

Q. About what time of the day was it when you began to take in the cable that Tuesday morning?

A. About eleven o'clock.

Q. You had a rest then? A. We have no rest.

[1247—403]

Q. You got in at five, Tuesday, and then you began to take the cable in at eleven?

A. Listen now. We discharged the cargo and got alongside the Hackfeld wharf. We took in the cable. I didn't have *not* time to rest.

Q. Then how many men were working with you at the time of taking in the cable?

A. We had the two gangs.

Q. Who were the bosses of these gangs?

A. Dick was the boss, the foreman, and I was kind of half-ass boss under him.

Q. How many men were there?

A. I couldn't tell you how many men we took out. I know how many men I had.

Q. How many men did you have?

A. I had thirty-seven.

Q. At that time you had the whole thirty-seven that you had before? A. Yes, the same men.

Q. Well, then, at eleven o'clock you got the cable

(Testimony of Tom Mason.)

aboard. From eleven o'clock what did you do?

A. Well, we took it aboard, we hove it and took it aboard.

Q. Mr. Mason, you said you started to put the cable on board at eleven o'clock. Tell us how long that took.

A. Took me three hours to take this cable in and this anchor.

Q. About two o'clock then? A. Yes.

Q. You got the cable on board. What did you do?

A. Eh?

Q. When you got this cable on board, what did you do with it?

A. We waited for an hour to get the anchor.

Q. Where was the anchor?

A. The anchor was down Iwilei in the yard.

Q. Yes.

A. Then when we came to the Hackfeld wharf we had to knock the Hackfeld gate down to get it in.

Q. And did you have anything to do with getting this anchor yourself? A. Yes.

Q. What did you do and your men? [1248—404]

A. When we got it off the wagon we put a strap on it and hoisted it up with the winch and land it on deck.

Q. Then what did you do next?

A. Then we was ready to go out. The inspector came and took the valves away from the machinery so that the "Makee's" propeller didn't go.

Q. Then you didn't go out on the "Makee"?

A. Yes, we got towed out.

Q. What towed you out? A. The "Mokolii."

(Testimony of Tom Mason.)

Q. About what time did you get out to the ship?

A. We got down there about six o'clock in the evening.

Q. What did you do then about this anchor, if anything?

A. Well, we got ready, hooked on the cable.

Q. Hooked the anchor on?

A. Hooked the anchor on the cable and hove it on to the blocks taut.

Q. What did you do about the anchor, if anything?

A. We dropped the anchor and lay over night. It was too late to put it from where the ship was.

Q. Then the anchor was not dropped Tuesday night? A. Yes.

Q. Then, what did you do that night?

A. Went on the "Celtic Chief."

Q. You did? A. We did.

Q. Your men also? A. Yes.

Q. When you got up on the "Celtic Chief," what did you do?

A. Well, we put on the straps, that is, the wire strap forward.

Q. What do you mean by the wire strapping forward? What is it? Describe it so the Court can understand.

A. We first went to work and put our straps, then we began to put the big tackles on.

Q. When you speak of the strap, what is it?

A. Right around the top.

Q. Where was that put?

A. On forward on the starboard side.

Q. About what place—can you locate it by any

(Testimony of Tom Mason.)

mast? [1249—405] A. Forerigging.

Q. Can you tell us where that strap was with regard to the mast?

A. About as far as from here to Olson here, from the mast.

Q. What mast was that? A. Foremast.

Q. Then the strap was rigged between the bit and the foremast? A. Yes.

Q. What was it made of?

A. Made out of iron. It isn't made out of wood, it was made out of iron.

Q. What do you mean—made out of iron? Was it a cable, steel rope, what was it?

A. I didn't tell about the steel rope, the bit.

Q. What was the strap made of?

A. Made out of wire.

Q. Then, when you got that strap on what did you do next?

A. We went back on board of the "Makee."

Q. How long did you work to get that strap on?

A. About an hour.

Q. Then you went on the "Makee." Anything else you did that night? A. No, sir.

Q. Then after you went aboard the "Makee," what happened? A. We waited around until morning.

Q. You got some rest then? A. Yes.

Recess.

Q. When did you go to work on Wednesday morning? A. On the "Makee."

Q. What did you do there? What were you doing Wednesday?

A. Hove up the anchor and went to the place where

(Testimony of Tom Mason.)

we dropped the big anchor, laid our cable.

Q. Where did you drop the big anchor?

A. Right astern of the "Celtic Chief."

Q. How far astern? A. Three hundred yards.

Q. What was attached, what was this cable attached to? What was the size of it?

A. Seven or eight inches thick.

Q. What was it made of, what material? [1250—406] A. Made out of steel.

Q. When you talk of a steel cable, how is it measured—by circumference or diameter?

A. Diameter, around.

Q. When you say diameter what does it mean?

Mr. STANLEY.—Let it appear on the record that he means circumference.

Q. Then this cable was seven or eight inches in circumference? A. Thick.

Q. Around? A. Around.

The COURT.—Do you mean around this way or thick through?

A. Around.

Q. And what did you do after you dropped the anchor with this cable on it?

A. Run it to the "Celtic Chief."

Q. Who was working with you on the "James Makee" that morning?

A. There was mate and Captain Miller, Wiesbarth, Captain Weisbarth, and several others.

Q. Where was Dick Clarke?

A. Dick Clarke was on board.

Q. Any other people on board except this man?

A. Plenty of them.

(Testimony of Tom Mason.)

Q. How many?

A. About ten or twelve on board the "Makee" that morning.

Q. After you dropped the anchor, what did you do?

A. Run it on the "Celtic Chief."

Q. What? A. Run it on the "Celtic Chief."

Q. How did you run it to the "Celtic Chief"?

A. With a boat.

Q. To the "Makee"? A. With a surf line.

Q. By what means did you use this surf line in connection with the cable? A. Yes.

Q. How did you use it?

A. We hauled it aboard.

Q. Was it attached to the cable?

A. That is attached to the cable. We hauled the cable over.

Q. Was the surf line attached to the wire cable?

A. The surf line was attached some place to the wire cable [1251—407] and hauled it over to the "Celtic Chief."

Q. And then what did you do?

A. Then we run a hawser from the stern of the "Celtic Chief" attached on to this cable, then we put the main tackle on.

Q. You've talked about a hawser; what was the size of that hawser? A. Twelve inch.

Q. What do you mean by twelve-inch hawser, through it or around it? A. Around.

Q. Was it a new one or an old one?

A. New one.

Q. Was it manilla or steel? A. Manilla.

Q. Then how was it attached to the cable, the steel

(Testimony of Tom Mason.)

cable. A. Shackled it on.

Q. What did you do next?

A. Hooked on, shackled the tackle to the other.

Q. You shackled the tackle to the other end. Then you had some tackle on board the "Celtic Chief"?

A. Yes.

Q. Who put that tackle? A. I was the one.

Q. Will you tell what tackle you had on the "Celtic Chief" at that time? A. Yes.

Q. What? A. It's a very big block.

Q. Describe it—what was it, what kind of tackle was it? A. Very big purchase; big purchase.

Q. How many blocks were there? What size blocks?

A. As much as four men to run one of them.

Q. How many sheeves in the blocks?

A. Three sheeves.

Q. In each one? A. Yes.

Q. What size ropes were in there?

A. Eight inches.

Q. Was it manilla? A. Manilla rope.

Q. Was it new or old? A. New ones. [1252—408]

Q. Now, when you had this, how did you rig this tackle on the ship and connect it with the cable? Describe that.

A. I have it on the bit and the foremast.

Q. One block on the bit and foremast?

A. Yes, over a kind of bridle for this tackle to hold on to the other.

Q. And is that where the fall was?

A. Yes, that's where the blocks was. The fall was

(Testimony of Tom Mason.)

run to the capstan.

Q. From that place? A. From that place

Q. Where was the—what was the other block of this tackle attached to?

A. Attached on the same fall after we hove it taut.

Q. There was another block on the main tackle, the first one? A. Yes.

Q. Where was that attached?

A. We have the main tackle, that is, the main blocks taut, then we rigged up another purchase.

Q. You have two blocks there, one forward and one aft on the ship. What block was connected with this cable on the anchor, how was it connected?

A. Shackled on to the hawser.

Q. Now, then, did you have any other lines than that?

A. That's only a tackle we had on the first.

Q. At first did you have any other lines at all attached between the ship and this hawser and cable?

A. We had a small wire, brand new, from the ship and attached from the hawser, from these blocks where we shackled the blocks on to the end of the steel wire and that was to help the hawser in case the hawser broke; the wire held it so we wouldn't lose our cable overboard.

Q. What do you call that? A. Eh?

A. What's that called in your business? Is there a name for that line? A. Which line? [1253—

409]

Q. The second line that you have just mentioned.

A. This steel wire?

Q. Yes.

(Testimony of Tom Mason.)

A. That is only prevention of the hawser from breaking.

Q. Is that called a bridle?

A. No, no; the bridle is a kind of a strap-like.

Q. After you got this tackle, first tackle attached between the bitts forward, a hawser attached to the cable, what did you do next?

A. We hove it taut.

Q. How did you heave it taut—by what means?

A. With the capstan.

Q. You then had it on the capstan?

A. We had it on the capstan and go around that capstan and heave it taut.

Q. And then what did you do?

A. Then we fleet another tackle.

Q. What does fleet mean?

A. Take a smaller tackle than that and haul her to the end where the other block is and put a kind of strap there and hook on to that, then hook on to this same bridle where the main block is, but little farther apart, so it wouldn't chafe, then run the fall into the capstan again and heave away on it.

Q. Then the second block and tackle begin to move?

A. We heave that and then we fleet another tackle, that is the third tackle.

Q. Now, wait a minute. This second tackle you speak of, what kind of blocks were they?

A. They was three sheeves, smaller ones.

Q. What was the size of the rope?

A. Seven-inch.

Q. What kind of rope? A. Manilla.

Q. Was it new? A. New one.

(Testimony of Tom Mason.)

Q. Then where did you say you took the second tackle and hove it taut? How did you heave it taut?
[1254—410]

A. Hove it with the capstan.

Q. When you got that taut, what did you do?

A. Fleet the third tackle.

Q. How was that attached?

A. Attached on to the same bridle.

Q. The third tackle was attached to the fall of the second tackle? A. Yes.

Q. The head block was attached where? The forward block?

A. Well, these blocks were attached on to the same bridle, the same strap that the other led it to, the fall of this second block; then the fall of the three blocks went to the capstan again.

Q. Then what did you do when you got that rigged? A. Then we started to heaving away on it.

Q. What was the result? What are the blocks on the third tackle?

A. There was a double sheeve on the block.

Q. Double sheeve?

A. Double sheeve and there was three sheeves on the other.

Q. What was the size of the rope used in that?

A. Size of the rope, I think it was about four-inch fall on to it.

Q. Was it manilla? A. Manilla rope.

Q. Was it new or old? A. New one.

Q. When you had this rigged you began to heave away. What did you heave away with?

A. The same capstan.

(Testimony of Tom Mason.)

Q. What was the result?

A. Kept on heaving and when she got two blocks were fletted and catch another hold and heave in again.

Q. And you kept that going how long?

A. Well, we kept that going on—

Q. When did you start in rigging this tackle?

A. We started about little after six in the morning.

Q. Of Wednesday? A. Yes.

Q. And when were you all ready with the third tackle?

A. The third tackle takes about nine o'clock, I couldn't exactly [1255—411] tell whether nine or eight.

Q. What did you do then after you got the third tackle ready?

A. We hove on the capstan. Keep on heaving and we taking in when they gets two blocks.

Q. Was this work continuous or not? A. Eh?

Q. Was this work steady, continuous—steady or not? A. Was the heaving steady?

Q. How long did you keep that up?

A. We kept that up from the time we got it ready to the time we got it off, the time we pulled the "Celtic Chief" off.

Q. Tell the effect on this cable, if anything, of the steel cable going to the anchor by this heaving.

Mr. OLSON.—I object on the ground it is answered; furthermore, on the ground it doesn't appear that the witness is qualified to answer.

Mr. WEAVER.—Withdraw the question. Did

(Testimony of Tom Mason.)

you notice at that time the hawser to the anchor line, anchor cable? A. Yes.

Q. What happened when you were doing this to the hawser attaching with the cable?

A. The cable was giving in all the time.

Q. The cable was coming in?

A. Yes, with much slack.

Q. You took in the slack?

A. Took in the slack.

Q. About what time? Did you, at any time, get that line in any other condition than slack? Did that line continue slack or not?

A. Well, we took in the slack and after we took in the slack the wire was taut.

Q. Now, what time did that, what time was that? Do you know about what time?

A. I couldn't exactly tell you.

Q. Was it daytime or night-time?

A. It was daytime when we got it taut.

Q. Was it noon or night or as near as Wednesday or what time?

A. That's all I know. When I got it taut it was taut. So taut we can't go around with the capstan.
[1256—412]

Q. How many men were working on the capstan during this time you were taking in slack?

A. We have somewhere about fifty or sixty, double bunks.

Q. Sixteen? A. Sixty at a time.

Q. How many were working, actually working on the capstan?

A. Of course, I didn't go around and count how

(Testimony of Tom Mason.)

many men on the capstan, but I see men, forty or fifty, on the capstan at a time.

Q. Now, then, at any time up to the time this cable was taut, where was this hawser attached to the cable with regard to the "Celtic Chief's" deck?

A. It was coming near to the deck all the time, gradually.

Q. Did it at any time come in? A. What?

Q. Did it at any time come in, this hawser?

A. Of course, coming in all the time. When you heaving your capstan the slack of the purchase would bring it in to you.

Q. When you got it taut, where was the end of the cable in regard to the "Celtic Chief"?

A. Outside the starboard side of the chock.

Q. Long or short distance?

A. Pretty short distance from the stern. I couldn't tell you how many feet or how many fathoms away.

Q. Now, then, describe what you did after you got this cable taut, as you say. What did you do then after you got it taut?

A. Well, I was heaving on, keeping on heaving.

Q. And that continued how long?

A. We kept it going.

Q. Till what time?

A. Kept it on till about eleven o'clock or sometime around eleven o'clock.

Q. Who was with you on the "Celtic Chief" up to the time when—

A. There was Weisbarth. [1257—413] There is Miller, there is Capt. Haglund, was here on the poop

(Testimony of Tom Mason.)

with the rest of them. There is the pilot. There is Weisbarth with me. Dick, he was the foreman bossing the natives around and I was attending to those tackles, looking after those tackles some of that time.

Q. After you got it taut, after you got the hawser taut, was the condition of the cable the same or different, these purchase tackles?

A. The cable was taut as a fiddle string.

Q. How about the purchase tackles?

A. They had pretty good strain on all of them tackles. They had a good strain on.

Q. What did you do, if anything, with regard to renewing the power on these purchase tackles?

A. What?

Q. Did you, at any time, have to renew the power or do anything with regard to them?

A. I can't tell; no. Maybe you got to heave away on it.

Q. At any time up to the time the "Celtic Chief" came off, did you notice any difference to the strain on the purchase tackles?

A. I was standing next to the one they heaving on, right next to the after chock where the hawser was coming in. The hawser was raised up off the deck pretty high. I was standing there when the blocks dropped and everybody sing out, "The ship is moving," and we all hurried up, jumped on the poop and tried to get the wire clear, and at that time the "Arcona" was laying on top of our anchor and everybody sings out, "We're going to run into 'Arcona,'" and "Arcona" wasn't doing nothing.

(Testimony of Tom Mason.)

The officer was put on the "Celtic Chief" to fire off the signal. He hurried off his gun all at once.

Q. What do you mean by hurried off his gun all at once? A. Full speed, go ahead and full speed.

Q. You mean signals?

A. Of course, they hoist the two red lights and fired three times, that is, in order to [1258—414] start and to go ahead full speed.

Q. What number to go ahead?

A. He says go ahead. I don't know, I couldn't pay no attention. I heard the officers say when I fire—

Mr. OLSON.—I object to any hearsay testimony.

A. I heard the officers when I fire once that's to go ahead, I think two to go ahead, three full speed.

Q. And those three signals you saw fired all at once. Did you see any other signals at that time?

A. No.

Q. Do you know anything about a red light?

A. I didn't pay no attention. I was clearing my tackles away to get clear of the cable.

Q. What were you doing to get clear of your cables? A. I was unshackling.

Q. Unshackling what?

A. Pins of the shackle.

Q. As a result of unshackling what happened?

A. Got it out, dropped the cable overboard.

Q. Your cable went overboard? A. Yes.

Q. Anything else you did with regard to that? Any other lines that you know anything about?

A. That's all.

Q. At the time that you speak of you saw the pur-

(Testimony of Tom Mason.)

chase drop on the deck. Do you know anything about the two lines to the "Arcona"?

A. Yes, one at the starboard and one at the port-side.

Q. What do you know about them at that time?

A. They were slack.

Q. How do you know that?

A. Everybody was singing out the "Arcona" was doing nothing.

Q. You say you saw these lines at that time?

A. I saw them when I went on the poop. [1259—
415]

Q. What time did you go on the poop?

A. Most of the time I'm working all around.

Q. Just how long before the three purchase tackles dropped on the deck as you spoke of had you seen these lines to the "Arcona"?

A. The "Arcona" was lying over straight to the stern of the "Celtic Chief."

Q. That is prior to the dropping of the purchase tackle or afterwards?

A. The time the "Arcona" came out there and got a hold with one wire about as thick as my thumb there,—they called it steel wire,—she just walked off that time and broke it. Then they took the two ends made fast again one on the port side and one on the starboard, and she went and dropped her anchor and she laid there and waited for the signal until high tide.

Q. Was she doing any pulling from the time she laid out her anchor to the time she broke her hawser?

A. From the time she busted that hawser the first

(Testimony of Tom Mason.)

time and after that she never done no pulling. She had a line fast waiting for the high tide and then she might start to pull.

Q. During the daylight could you see the "Arcona's" stern from where you were?

A. We could see her plain.

Q. What was the condition of the water about her stern? A. There was no stirring up.

Q. Do you know whether or not the "Arcona" had an anchor out forward?

A. It had his anchor forward and he was lying broadside to the "Celtic Chief" stern right on top of the Miller Salvage anchor.

Q. How were the lines of the "Arcona" going to the "Celtic Chief," fastened upon the "Celtic Chief"? A. How were the lines?

Q. Yes, these cables you speak of going from the "Arcona" back to [1260—416] "Celtic Chief" on each side. How were they fastened on the "Celtic Chief"?

A. One was fastened to the mizzenmast aft.

Q. Aft?

A. Through the chock on to the mizzenmast.

Q. Through the chock? Which one?

A. On the port side.

Q. And the other one?

A. The other one was on the bitt on the port side.

Q. Starboard? A. Well, the starboard side.

Q. Prior to the dropping of these purchase tackles on the deck of the "Celtic Chief" that night, did you notice any hawsers or cables going up to other vessels from the "Celtic Chief"?

(Testimony of Tom Mason.)

A. Well, there was the "Mikahala" tow-line.

Q. What other vessels were there?

A. Well, there's the "Likelike" and the "Helene."

Q. Did you see any tow-line going to them?

A. Yes, they had their lines out.

Q. And while you were tightening up this cable and working on it up to the time they dropped, did you notice any strain on any of these hawsers?

A. No, they didn't have time to take their anchor up and get out of the way.

Q. Which did not?

A. The "Mikahala" and the "Helene."

Q. How about the "Likelike"?

A. The "Likelike" was the same; they was taking their anchor up to get out of the way.

Q. What was the condition of the hawsers running to those three vessels?

A. After the ship came out they were slack.

Q. Before the ship came off what was the condition of the line? [1261—417]

A. They were pretty taut sometimes; sometimes slack on account of the boat coming back and forward.

Q. Were they pulling or not?

A. Them three ships was pulling.

Q. And what was the condition of their hawsers?

A. The lines wasn't taut, because the propeller turning around the force of the water, of course, the waves got more power to drive the vessel in and the hawsers were fastened to these ships like that.

Q. Could you observe all these lines? How could you see after dark all these things?

(Testimony of Tom Mason.)

A. They had their line there in the daylight.

Q. After dark?

A. Well, the search-light was there.

Q. What search-light?

A. "Arcona's" search-light. The "Arcona's" search-light was on the "Celtic Chief" considerable. They were playing the light all the time.

Q. Can you tell what pull these boats were making? How they were pulling? To what extent at this time, just before the "Celtic Chief" was noticed to drop the purchase tackles on deck?

A. When the tackle dropped on deck, the ship was going out to sea.

Q. Just before that time I'm asking you how these boats were pulling. A. They was pulling—

Q. Slow speed, full speed, half speed?

A. I don't know anything about that.

Q. When these purchase tackles dropped on deck there, the night of Wednesday, just before the "Celtic Chief" came off, I want to know at that time could you observe how much they were pulling?

A. I don't know. They might be slow speed, might be full speed. It's up to them, of course. I have no occasion to go around them steamers.

Q. Take the "Mikahala" line, if you remember, just at that time before the purchase tackles dropped, what was the condition of [1262—418] her line at that time, just before the "Celtic Chief" apparently moved?

A. Well, just the same as I told you, they was hitting just like that and sometimes is taut and sometimes is slack.

(Testimony of Tom Mason.)

Q. How far away from the ship, if at all, would this line strike the water, would the line to the "Mikahala" be out of water?

A. That was in the water, sometimes comes out of the water, sometimes drops right down on the skin of the water.

Q. What do you mean?

A. Ride with the ship on the sea. Sometimes the ship pulls forward, comes taut.

Q. How about the "Helene" and the "Likelike"?

A. The same way.

Q. Could you tell by any of the lines, "Mikahala," "Helene," and "Likelike" on board the "Celtic Chief," whether or not they were slack or taut?

A. I can't say they was taut or they was slack. They just riding the ship but ain't like you hauling tight, the ship got to ride, you see, with the sea.

Q. Now, then, about this salvage line, was that the same way? A. Eh?

Q. I asked you if the Miller Salvage line was in the same condition as this other rope?

A. No, sir.

Q. What is the difference, if any?

A. They had a more big anchor, that's a heavy boat and that's hauled taut by tackle, that purchase, that giving. That's the steady pull, there's no rising up and down.

The COURT.—Then it was the more taut, the cable? A. The cable.

Q. To the anchor or these lines to the "Mikahala," "Helene," and "Likelike"?

(Testimony of Tom Mason.)

A. The cable, Miller Salvage Co.'s cable was taut.

Q. Would it change with the seas or not? [1263—419] A. There is no change with the sea.

Q. Can you describe the condition of the cable at that time? A. Well, it was taut; was taut.

Q. Did you make any experiments with it or do anything to ascertain how taut it was?

A. By heaving the capstan all the time, make it taut.

Q. Did you make any observation with regard to the position of the "Celtic Chief" after you got your cable to the anchor taut? Did you take any sights at any time to get the position of the "Celtic Chief"?

A. I didn't have no time to look at no sights. I was tending to my work on the deck. There was different men who was taking sights. I don't know about taking sights. All I know that when I heard, see my ropes drop down on the deck and everybody sing out, "The ship is coming off," I went and run up on the poop to unshackle my wire, my cable off in a hurry. I seen the "Arcona" that was pretty near. The "Arcona," we could look right on the deck.

Q. How far were you away from the "Arcona"?

A. That was no further than from here to the end of the room there.

Mr. WARREN.—To the wall?

A. To the wall where the clock is.

Mr. WEAVER.—Where was the "Mikahala" at this time?

A. The "Mikahala" was trying to get. Somebody sing out to cut the "Mikahala" line on the boat to get it clear.

(Testimony of Tom Mason.)

Q. What did you do, if anything, about the lines of the "Mikahala," "Likelike," and "Helene"?

A. I had nothing to do with their lines. I had to come up to clear my cables away.

Q. Up to clear your cables where?

A. On the deck.

Q. What did you do to them?

A. Looked to see if it would run into the "Arcona." [1264—420]

Q. What prevented, if anything did prevent, her running into the "Arcona," if anything?

A. It would have been better.

Q. What stopped it?

A. He just had time to get out of the way.

Q. The "Arcona" finally got out of the way?

A. Yes.

Q. Then what did you do that night?

A. Well, got our tackles. I got it all in place and take it on board the "Makee" the next morning.

Q. Now, I ask you about your first visit to the "Celtic Chief" when you were doing this laboring work you speak of. Did you notice any movement of the vessel then? A. I heard the pilot say—

Q. What you noticed, not what you heard said. Any movement of the "Celtic Chief"?

A. She was pounding up and down.

Q. How hard, to what extent?

A. Well, pretty hard.

Q. Could you tell from your observation at all, what part of the hull she was pounding?

A. Right in the center. Every time the sea strikes her she comes up and goes down heavy.

(Testimony of Tom Mason.)

Q. How often would that occur?

A. Pretty often.

Q. That first day, that Monday?

A. That first day.

Q. Could you give an idea what was the intervals of time that occurred? A. Eh?

Q. How long a time would happen between the time she pounded? A. How long a spell?

Q. Yes, how long a spell?

A. There's three big seas, three big waves, then a small wave.

Q. Now, the three big waves, what did they have to do with it?

A. The three big waves when they comes they lift the ship up and she comes down. [1265—421]

Q. Were they close together or far apart?

A. Far apart.

Q. How far apart in time?

A. I couldn't tell you. Never been measured how far the sea.

Q. Three big ones and a small one?

A. Three big ones and a small one. That is, they have a small one between these big ones.

Q. How long a time would occur?

A. About fifteen or twenty minutes.

Q. And how long did they last while you were out there on the ship?

A. It last pretty near all day. The sea was running pretty heavy all day.

Q. Do you know whether or not the "Celtic Chief" was maintaining her position at that time?

A. Changing?

(Testimony of Tom Mason.)

Q. Yes, was she changing her position at that time? A. That I couldn't tell you.

Q. Do you know whether she was going forward or backward? A. Eh?

Q. Do you know whether she was going forward, in towards the shore?

A. I heard the pilot say she moved in twenty-five feet.

Mr. WARREN.—I think the question is getting a little too leading.

Mr. OLSON.—I move to strike the last answer.

The COURT.—The last answer may be stricken.

Q. What was the direction of this swell that you spoke of with regard to the fore and aft line of the "Celtic Chief"? A. Fore and aft line?

Q. The line of the "Celtic Chief" which pointed toward the shore. Now, what direction was the swell with regard to that line? A. What line?

Q. Keel, the keel line of the "Celtic Chief." [1266—422] On which side of the keel was this swell coming? A. Right under her.

Q. Could you tell on which side, starboard or port?

A. I didn't have no time to look where the sea was coming. She was lying stern to the sea.

Q. The second time you were there, did you observe any movements of this "Celtic Chief"? What did you observe?

A. She was still pounding and the swell was lifting her up.

Q. How was it, that pounding, in relation to the pounding on the first day? A. The same.

Q. How long did that continue on Tuesday, if you

(Testimony of Tom Mason.)

know? A. Well, all day,

Q. Did you observe any change in the position of the "Celtic Chief"? A. Lifting her up?

Q. Do you know whether or not she was—was she moving, alter her position of the prior day, in any way—that day you went back there on Wednesday?

Mr. MAGOON.—What was your answer to that question, Mr. Mason, whether or not you observed any change in the position of the ship on the second time?

A. I didn't take notice that she had changed any. In the same position all the time.

Mr. WEAVER.—And the third day, did you notice any motion of the "Celtic Chief"? What was it?

A. I heard the pilot say she moved off fifty feet.

Q. I want to know what you know.

A. That's all I know. When I hear a man saying she moved in fifty feet I take a notion of that.

Q. I'm asking you what you know.

A. I know that Captain Miller told me—

The COURT.—This testimony with regard to what the pilot and captain said, referring to the coming off of the "Celtic Chief," is stricken.

Q. I want to know of anything with regard to the moving of the ship on Wednesday. Did that same state of things continue on Wednesday? [1267—423]

A. Same, she was still pounding, she wasn't lying still, she was pounding all the time.

Q. How severe was it on Wednesday? Was it the same or not as prior to that day?

(Testimony of Tom Mason.)

A. It might be the same. Of course I—

Q. Was it the same? Was it the same or more severe?

A. Might be the same. Of course, I can't tell the difference because I see the ship was shaking every time she goes down.

Q. Did you observe anything like this while you were arranging these tackles of the "Celtic Chief" on the first day?

A. She was still apounding when I had the tackles on.

Q. When you observed these tackles early on the night of Wednesday, did you observe any other motion of that vessel?

A. After she start to move, after the tackle fell down that's all I know.

Q. Did you observe anything then?

A. Then I know that the vessel was out.

Q. How do you know that she was moving off?

A. She moved out to sea, then she didn't pound no more.

Q. Prior to moving to sea, did you observe any motions whatever of that vessel? Could you tell by your senses any difference from the motion of the vessel except this pounding?

A. About moving or—

Q. Anything. How do you know she was moving?

A. When she started to go she went.

Q. How do you know it?

A. She went when I saw the blocks come down.

Q. Did you have any sense or feeling in any way by which you could judge?

(Testimony of Tom Mason.)

A. She was coming. A man could know when the ship is coming out and everybody singing out, "The ship is out."

Q. How long after the blocks fell was this boat off the reef altogether? How long? [1268—424]

A. At the time she—

Q. From the time the blocks fell to the time she was off the reef?

A. When she jumped off the reef didn't take us three-quarters of an hour to get everything out and get everything clear.

Q. No, no, you don't understand me. From the time the blocks fell to the time she was entirely clear of the reef, how long was it?

A. I don't know what you mean.

Q. When did you observe the "Celtic Chief" moving seaward?

A. I know when my blocks fell down the ship started to go.

Q. From that time of the start to the time she was free? A. She is free then.

Mr. OLSON.—She came off at once?

A. Came at once.

Mr. WEAVER.—Now, then, when did you first observe the "Celtic Chief" moving?

A. "Celtic Chief" what?

Q. When did the "Celtic Chief" begin to move seaward?

Mr. OLSON.—I think the question has been answered several times.

The COURT.—Objection is overruled.

(Testimony of Tom Mason.)

Q. When did the "Celtic Chief" first begin to move seaward?

A. That was the time when the block fell down.

Q. Then you think the "Celtic Chief" began to move seaward and went off all at once?

A. My opinion is she started to move when they says, "She's going out." She didn't come bumping like that.

Q. From the time this vessel first began to move, how long was it before, in your judgment, she was free of the reef entirely?

Mr. OLSON.—If the Court please, this question has been asked four or five different times.

The COURT.—The objection is overruled.

Mr. OLSON.—In the first place, I object to the question on the ground it has been asked and answered several times, fully [1269—425] and clearly in direct examination, and that counsel are not entitled to go on questioning the witness from time to time when the answer has been answered or given. Furthermore, I want the record to show that I asked the opportunity of the Court to present my reasons, to argue it and the Court denied it.

Q. From the time of the very first movement until she was free from the reef, how long did that take?

A. She started when my tackle blocks fell down. That's the time I see her move. It didn't take about fifteen minutes until she was looking over the "Arcona's" stern.

Mr. OLSON.—It didn't take what?

A. It didn't take fifteen minutes before we was looking over the "Arcona's" stern.

(Testimony of Tom Mason.)

Q. Do you know whether or not any damage occurred to the "Concord" or the other Miller Salvage boats while you were working on the "Celtic Chief" on Monday or Tuesday?

A. I don't know any damage on the "Concord" because I wasn't working on her.

Q. Do you know of any damage done to any of the vessels?

A. There was a little damage on the "Naimilo."

Q. What was done? You know of your own knowledge.

A. Yes, that was the only ship I was working on.

Q. What was done?

A. One of the chock pulled out of the side.

Q. Top pulled out of the side?

A. Chock, where the line is.

Q. Anything else?

A. That's all I know. Broke the hawser that was fastened to it.

Q. Was there anything else? A. That's all.

Q. Was there any damage done on Tuesday to any vessel you know of?

A. No, didn't take no notice of it.

Q. Have you ever done any salvage before this time? A. "Mirowira." [1270—426]

Q. Where was that? A. Out the harbor.

Q. How long ago?

A. That's good while ago, the time the "Miro-wira" was ashore here out on the reef here.

Q. And what did you do with regard to that? What experience did you have then? A. Eh?

(Testimony of Tom Mason.)

Q. What experience did you have then with salvaging?

A. That expert man came down here and they hired us to work with him.

Q. Who was this man? A. Medcalfe.

Q. What did you do?

A. Labor, laboring, helping.

Q. How many days were you working with him?

A. What?

Q. How many days did you work with him?

A. Two days.

Q. What kind of apparatus did she use to salve?

Mr. OLSON.—I object to the question on the ground that it is incompetent, irrelevant, and immaterial.

The COURT.—I overrule the objection.

Mr. STANLEY.—Note an exception.

Q. What experience in salvaging did you have while you were on the "Mirowira." Describe it.

A. I was working with Medcalfe handling ropes and blocks and tackles and at the same time when I was working for him I was just taking in sights, how they rigged the cable up, putting in my mind if there is any occasion of putting a tackle like that I am, I know little more what I know before.

Q. What apparatus did you use to salve her, what machinery?

A. We didn't have no machine; just common labor.

Mr. OLSON.—I object on the ground it is incompetent, irrelevant, and immaterial what kind of apparatus they used on the "Mikahala."

(Testimony of Tom Mason.)

Mr. WARREN.—Same objection. I'd like to have an understanding on the record, whether or not, your Honor, this evidence is admissible solely for the purpose of showing experience and not admissible as evidence of the apparatus used. [1271—427]

Mr. WEAVER.—On behalf of the Miller Salvage Co., it is agreed that the questions propounded to the witness in regard to the salvage of the "Miro-wira" are for the purpose of establishing the experience of the witness in such salvage.

Mr. WARREN.—I make the same objection as Mr. Olson made.

Mr. WEAVER.—And not for the purpose of showing any skill of Miller Salvage Co.

Mr. WARREN.—Not for the purpose of comparing methods.

The COURT.—Not for the purpose of saying that because they pulled this former boat off the reef, I take it simply that you are trying to prove that that man had experience in that kind of business.

Mr. OLSON.—Is the objection overruled?

The COURT.—Yes.

Mr. STANLEY.—Note an exception.

A. Well, I was a common laborer on her when Medcalfe had his cable down.

Q. What did he have in addition to a cable, if anything?

A. The same anchor what we got down, the Miller Salvage Co.

Q. Big one or little one? A. Big one.

Q. How big?

(Testimony of Tom Mason.)

A. I understood from Medcalfe—

Mr. OLSON.—I object if the witness is going to state what someone else said about this anchor.

Mr. MAGOON.—Yes, we don't care about that.

The COURT.—State what you observed or saw about the anchor.

A. By my guessing, the anchor ran up from six to seven pounds.

Q. This same anchor used in the second case, the case out here? A. The same anchor we got now.

Q. What other machinery did you have to apply to this cable? A. In the "Mirowira"?

Q. In the "Mirowira."

A. That was rigged in the same way I was rigging on the "Celtic Chief."

Q. With treble blocks?

A. Treble blocks. [1272—428]

Q. And three of them?

A. Yes, and put up in the same way as the "Mirowira."

Q. Could you tell me about the seas during the "Celtic Chief's" stranding there Tuesday and Wednesday? Was the sea Tuesday and Wednesday, the same as Monday?

Mr. OLSON.—Object to the question; it has been asked and answered.

The COURT.—I allow the question.

A. Shall I answer it?

Q. Yes.

A. The sea was pretty regular that Monday morning.

Q. How was it Tuesday?

(Testimony of Tom Mason.)

A. As I took notice of it it is just the same.

Q. How about Wednesday?

A. Wednesday about the same.

Q. What was the wind during that time, Monday, Tuesday, and Wednesday?

A. Was pretty light wind.

Q. From what direction?

A. From seaward, trade winds.

Q. After the purchase tackles dropped on the deck of the "Celtic Chief" that night, Wednesday, did you notice any difference in the condition of the steel cables going to the "Arcona" from the "Celtic Chief"? A. What is the difference?

Q. Yes, after your lines dropped and the "Celtic Chief" began moving off, did you notice any difference in the cables to the "Arcona"?

A. The "Arcona" line, I told you before when the ship was off the reef there the line was slack.

Q. Then what happened after the ship was off?

A. That is taut when she hove away. She got out of the way and commenced pulling.

Q. Then she began to pull and pulled taut?

A. Pulled taut. Then she had the whole weight of the ship dragging her then.

Q. What vessel, if anyone, towed this "Celtic Chief" off the reef? [1273—429]

The COURT.—Didn't he cover that already?

Q. I want to know what happened when this "Arcona" kept these lines taut.

A. She bring her away.

Q. Where? A. She towed her to the bell buoy.

Q. Then what happened?

(Testimony of Tom Mason.)

A. They dropped the anchor.

Mr. WEAVER.—That's all.

Cross-examination of TOM MASON on Behalf of Libellee.

Mr. OLSON.—Q. Mr. Mason, I understood you to say on direct examination that the Miller Salvage Company's line was kept good and taut from the time that you first got in all of the slack until the time that the tackles dropped? A. Yes.

Q. And the ship came off the reef? A. Yes.

Q. That's correct, is it?

A. (Witness shakes head to indicate, "Yes.")

Q. Where were you when the tackles dropped like that?

A. I was standing right by the poop, on the poop. The block—

Q. On the main deck? A. On the main deck.

Q. Which is forward of the poop deck?

A. Which is just forward.

Q. The poop deck is seven or eight feet, is it not up above the other decks?

A. It's about seven or eight feet.

Q. You were somewhat near the capstan?

A. I am all over the ship.

Q. But I say at the time that the blocks dropped like that?

A. No, sir, I was right down by the blocks there. I was ready to fleet. I wanted to fleet because the block was two blocks.

Q. Were you near the break of the poop?

A. Just right under the poop. [1274—430]

Q. Just under the poop?

(Testimony of Tom Mason.)

A. Yes, the poop was there and I was just right here with the tackle, about forty feet away from the poop.

Q. You were standing on the main deck alongside of the block? A. Yes.

Q. And all of a sudden it dropped?

A. And all of a sudden it dropped.

Q. And the "Celtic Chief" slipped at once into deep water? A. Yes.

Q. Then you marched up on to the poop?

A. Ran up on the poop—didn't march up—ran up on the poop to get the gear clear.

Q. When you came up there you were almost down on the "Arcona"? A. Yes.

Q. Now, it didn't take fifteen minutes from the time that block dropped until you got on top the poop?

A. When I got on the poop, might be fifteen or twenty minutes.

Q. You rushed right on the poop from the deck?

A. I rushed there when they sang out, "Clear the cables."

Q. There are some steps, are there not, going up from the main deck? A. Yes.

Q. And you were twenty-five or thirty feet from the poop? A. Yes.

Q. And that poop is seven or eight feet high?

A. Yes.

Q. How long is that poop deck, should you say?

A. How long?

Q. How far is it from the break of the poop to the stern? A. I take it it is about fifty feet.

(Testimony of Tom Mason.)

Q. You rushed right up there as fast as you could?

A. I ran up there.

Q. As fast as you could? A. As fast as I could.

Q. When you got up there you went down on the deck?

A. In order to see the poop of the "Arcona."
[1275—431]

Q. You didn't know that it took you fifteen minutes, the quarter of an hour to go from the main deck to the poop? A. No.

Q. Didn't take you more than half a minute?

A. Didn't take me more than a minute.

Q. By the time you got up there the "Celtic Chief" was in deep water? A. She was that.

Q. From the time the "Celtic Chief" started to move until she was in deep water, it was perhaps half a minute or less? A. I couldn't tell you how long.

Q. But it didn't take more than half a minute to go up from the main deck?

A. Didn't take me that.

Q. It didn't take any longer for the "Celtic Chief" to go off from the reef to deep water?

A. When the time she slide off of course the block fell down. Everybody sing out, "The ship is in deep water now," so I rushed up on the poop.

Q. And was she already in deep water?

A. She was afloat. It might take fifteen or twenty minutes.

Q. You mean it took you quarter of an hour?

A. It didn't take me quarter of an hour.

Q. Did you mean to say it did?

A. I say, from the time the block fell down. We

(Testimony of Tom Mason.)

were busy clearing these cables away. We could see the "Arcona's" stern plain. We could look right on top of that boat.

Q. Now, we want to get very clear, a very clear explanation from you of just how long it took, in your opinion, from the time she first started to move, that is when the block dropped, until she was in deep water. Do you mean to say it took fifteen minutes?

A. Took us fifteen minutes to clear our things up.

Q. You don't mean to say it took fifteen—

A. I do not mean it took the "Celtic Chief" fifteen minutes to jump out of the reef.

Q. It went at once, didn't it? [1276—432]

A. She went, she slide off.

Q. By the time you got the decks clear and in shape so that the "Arcona" could tow her out into deep water, it would take about fifteen minutes?

A. Fifteen or twenty minutes.

Q. As I understood you, Mr. Mason, the first indication that you received that the "Celtic Chief" was starting to move, was *one those* blocks suddenly dropped; is that right? A. Starting to move?

Q. Yes, that is the first you knew of her going off?

A. Yes.

Q. Then the blocks suddenly dropped and she was off into deep water?

A. She was off then, she slides off.

Q. At once? A. At once.

Q. Then the pounding movement stopped?

A. The pounding movement stopped.

Q. Now, Mr. Mason, if there had been any decided or great movement on the part of the "Celtic Chief"

(Testimony of Tom Mason.)

coming in fifteen or twenty minutes before that time, you would have noticed it, wouldn't you?

A. Of course, a man running around and working and keeping himself busy, he don't take no notice if the ship been move before that, but if I see that the block drop, that's the time I know the "Celtic Chief" was off, and everybody sing out, "The ship was off."

Q. If she had taken a jump fifteen or twenty minutes previous the blocks would have dropped?

A. Might be if she jumped far enough.

Q. If she jumped ten or fifteen minutes?

A. Them blocks would slack down.

Q. Did you notice that they did that at any time?

A. No, no; that's only the time that she came down.

Q. They were not slack down from the time you first made her taut to the time the blocks suddenly dropped? A. Yes. [1277—433]

Q. You were about there around those tackles all of the time? A. I was there back and forward.

Q. You had charge of the tackles? A. Yes, sir.

Q. Now, then, according to your judgment, Mr. Mason, as you observed the "Celtic Chief" wasn't moving, coming gradually off the reef, noticeably coming off the reef for half an hour before she came off? A. I never took no notice of it.

Q. You would have noticed that?

A. If I was aholding still in one place, but a man moving around and busy, he wouldn't have time.

Q. You knew nobody to say she was moving?

A. No.

Q. You saw Captain Miller? A. Yes.

Q. You saw Mr. Haglund? A. Yes.

(Testimony of Tom Mason.)

Q. And Captain Weisbarth? A. Yes.

Q. None of them notice any movement?

Mr. WEAVER.—I object to that, if your Honor please.

Mr. OLSON.—I withdraw the question. Did any of those men, Mr. Haglund, Mr. Weisbarth, or Captain Miller, speak of noticing the "Celtic Chief" come off? A. Not that I heard.

Q. They did not? A. I never heard it.

Q. They were all around there all the time?

A. Captain Miller was up on the poop sometime; sometime we didn't see him at all.

Q. Captain Weisbarth was there?

A. Captain Weisbarth, sometime he was up with the capstan pushing the men ahead, sometime he goes around to the block, give us a help there.

Q. Now, Mr. Mason, how far aground do you think the "Celtic Chief" was as she lay there Wednesday night? A. How far?

Q. How far aground?

A. She was aground her bow [1278—434] or midships or her whole length?

Q. I couldn't tell you. I know the bow was pretty, we could see the sand, white sand spreading out on the water.

Q. Isn't it a fact, Mr. Mason, that she was also aground at her stern?

A. I haven't taken notice.

Q. She was aground her whole length?

A. She might be.

Q. You think she was? Do you think she was aground for her whole length? A. I don't know.

(Testimony of Tom Mason.)

Q. Even though you are a seafaring man, Mr. Mason, you don't know whether or not she was, you have no idea? A. I couldn't see.

Q. You didn't take any notice about her at all?

A. No, not on deck.

Q. Now, when this jump came, did you see Captain Miller about that time when the blocks dropped like that?

A. That's the time I saw everybody on the poop.

Q. Did you see Captain Miller?

A. I saw Captain Miller but he gave me no orders.

Q. Now, just before those blocks dropped, had you had any orders from Captain Miller?

A. No orders from Captain Miller at all.

Q. You were around there tending to the tackles, you were the man in charge of the tackles?

A. I was the rigger.

Q. You were the man to see that those tackles were properly worked? A. Yes.

Q. You were giving orders to the men at the capstan also?

A. Me and Weisbarth and Dick, Dick Clarke.

Q. You didn't hear Captain Miller about fifteen or twenty, anywhere from fifteen or twenty minutes to half an hour before these blocks dropped and the "Celtic Chief" came off, give orders to anybody?

A. Give orders to the men, never give me orders because I know what to do; he leave it [1279—435] all to me to tend to them tackles.

Q. And he didn't order you to make any special pull at that particular time? A. Eh?

Q. He didn't order you anywhere from half an

(Testimony of Tom Mason.)

hour to twenty minutes before the "Celtic Chief" came off?

A. He gave it to the other people. He sing out, "Heave away." He said, "Go ahead; keep on."

Q. When was this?

A. Well, might be a hour but I didn't see Captain Miller very often.

Q. He would come around there once in a while?

A. He comes around; he don't come to bother me. He talks with Weisbarth and the other people but he don't come and bother my work, you know.

Q. Now, Mr. Mason, when you got the line taut in the afternoon or Wednesday or about noon, whenever it was, and you started to heave in on that capstan, that is in order to put a strain on that line, did you come to a point where you couldn't make that capstan work any more?

A. Never; we always took in gradually all the time.

Q. The whole evening?

A. The whole evening.

Q. That capstan was going the whole evening, round and round? A. Around.

Q. Heaving in tackle? A. Yes.

Q. That kept on from noon on Wednesday until about midnight of Wednesday? That's correct?

A. Correct.

Q. For about ten or twelve hours constantly heaving in on that capstan?

A. Not fast; slowly. Before we walked around pretty fast, after we got the tackles taut we go gradually, easily with it.

Q. You could always get some more?

(Testimony of Tom Mason.)

A. Always coming in, a little at a time.

Q. Did you use the winch at all?

A. The steam winch? [1280—436]

Q. Yes.

A. Oh, yes, we used the steam winch before the captain comes and take the winch away from us.

Q. When was that?

A. Well, that was about two or three hours before we—not exactly, might be two or three hours.

Q. When? A. In the afternoon.

Q. About two or three o'clock, was it?

A. Might be three or four.

Q. Then you were not using the capstan part of that time?

A. We had it fifteen or twenty minutes around this winch and the captain come around and he says, "Here, you can't use that"; we have to lead it to the capstan again.

Q. Now, when you came out there on Monday morning, that would be about what time?

A. We got out there somewhere about ten.

Q. Ten o'clock? A. Ten o'clock.

Q. And there was a pretty heavy sea that was running? A. Yes.

Q. What kind of a day? A. Fine day.

Q. Fine day?

A. Fine day, but there was heavy swells running in.

Q. How high were those swells running, would you say? A. Pretty high.

Q. How many feet? A. I couldn't tell you.

Q. Ten or eleven feet? A. I couldn't tell you.

(Testimony of Tom Mason.)

Q. More than that?

A. I couldn't exactly tell you because I haven't ever measured it.

Q. Have you no idea? A. Quite a swell.

Q. Two or three feet?

A. Might be two, three or four feet.

Q. Isn't that an ordinary swell out there?

A. There's a bigger swell than that.

Q. Bigger swell prevailing?

A. Yes. [1281—437]

Q. There are bigger swells out there sometimes?

A. When you see a swell that breaks over it's a big swell.

Q. Was it breaking over that day?

A. It was running and breaks ahead at the bow.

Q. Can't you calculate whether or not in your judgment that was running more than two or three feet high?

A. Might to be two, three, four, or five feet. It was a big running swell.

Q. Any difficulty in your vessel getting alongside of the "Celtic Chief"? Was there any difficulty or trouble in getting alongside?

A. We had a bit of trouble getting her alongside, getting the "Kaimiloa" alongside.

Q. And it was just as rough on Tuesday as on Monday?

A. Might be a little better; I don't know. It seems to me.

Q. And quite as rough on Wednesday as on Monday and Tuesday?

A. Well, it might be a little smoother; it might be

(Testimony of Tom Mason.)

a little smoother.

Q. You didn't take much notice?

A. I didn't take much notice, but I saw the swell running in from the sea.

Q. The ship was pounding, as I understand you, Mr. Mason, when you came up on the poop you noticed, then, that the "Arcona's" lines were hanging how? A. Slack.

Q. Absolutely slack and she wasn't turning her propeller?

A. I couldn't tell if she's turning over or not because she was lying port side.

Q. Was the "Celtic Chief" ahead of the "Arcona"? A. We came out out that way.

Q. What did you head for?

A. Head for her stern first.

Q. And if you had run into the "Arcona" you would be likely to hit her? A. Sure.

Q. On the quarter? A. On the quarter.

Q. Which quarter?

A. Port quarter. [1282—438]

Q. Into the port quarter of the "Arcona"?

A. Yes.

Q. That's where you would have struck her, the "Celtic Chief" would strike her?

A. She didn't have no power to go ahead to hit the "Arcona."

Q. Did the "Mikahala" pull the "Celtic Chief" to a side? A. The "Mikahala" was cut out.

Q. The "Mikahala" did not pull the "Celtic Chief" to the side? A. No.

Q. The "Celtic Chief" naturally came to a stop

(Testimony of Tom Mason.)

before reaching the "Mikahala"?

A. Before reaching the "Mikahala."

Q. Then the "Arcona" got up steam and she got the "Celtic Chief" in tow, stern to the "Arcona"?

A. Yes.

Q. You know, do you not, that the "Arcona" was anchored out ahead? A. How?

Q. You know that the "Arcona" was anchored ahead?

A. If ever the anchor dropped over she must have had it ahead.

Q. Don't you know that she did?

A. If the anchor was dropped over she had anchored.

Q. Can't you answer me yes or no? Do you know whether or not she had an anchor out ahead?

A. She had her anchor out ahead; she would not—

Q. You were out on the "Celtic Chief" the afternoon of Wednesday, the whole afternoon?

A. Yes.

Q. You saw, did you not, where the "Arcona's" line was first the single line? A. Yes.

Q. You saw when they afterwards repaired that and spliced that line and put the second line on?

A. They ran the same lines, the same two lines.

Q. Same wire? A. Same wire.

Q. And then they ran a second one?

A. They ran another one. [1283—439]

Q. The one was to the starboard and the other to the port; is that not correct? A. Yes.

Q. Didn't you notice, Mr. Mason, that when they did that they brought the lines into position and ad-

(Testimony of Tom Mason.)

justed them so that the "Celtic Chief," lying as she did, the "Arcona" was directly astern to her?

A. Astern?

Q. Yes.

A. If you had two lines like a bridle line like you ride a horse, if you had two lines like that and had your ship ahead.

Q. You noticed, did you not, Mr. Mason, that the "Arcona" did adjust those lines so as to get their lengths about the same?

A. Might be she had the lines in length, but she wasn't doing nothing at all.

Q. I'm asking you if you didn't notice that the "Arcona," when she had put those two lines aboard the "Celtic Chief," adjusted them and brought them to an absolutely taut position? That didn't happen or did it? A. Didn't happen.

Q. Just put her lines aboard and they hung slack there? A. Yes.

Q. She didn't even drag them out of the water?

A. She didn't.

Q. She wasn't turning her propeller?

A. I couldn't tell you. My judgment is, when the ship was lying that way and the stern of the "Celtic Chief" was that way, she wasn't doing any turning over at all.

Q. That's the reason why you *she* she was lying quiet? That's the reason why you think the "Arcona" had been doing no pulling at all, because when you came off the reef you pretty nearly struck her on the quarter?

A. Her lines were slack from the time she dropped

(Testimony of Tom Mason.)

that anchor to the time we got the vessel off. That is the time I see them start up.

Q. When you were up on the poop deck after the "Celtic Chief" had got off the reef, you saw that the "Arcona's" lines were [1284—440] slack?

A. Were slack.

Q. And you saw also that the "Celtic Chief" was coming up close to the quarter of the "Arcona"?

A. She was.

Q. And for that reason then you came to the conclusion that the "Arcona" was not pulling because if she had been pulling she would be—

A. Going ahead.

Q. So she could not have been pulling for that reason? A. No.

Q. That's the reason you think so? A. Yes.

Q. Now let's see; you were on the main deck, were you not, when the blocks fell to the deck suddenly?

A. Yes.

Q. Can you tell me where you had been for the several minutes previous to that time? A. Eh?

Q. Where had you been for the several minutes preceding that time? Where had you been just before that? A. I was up around the capstan.

Q. The capstan was back amidships?

A. It's right up to the bow.

Q. It's up to the bow of the vessel? A. Yes.

Q. You had been up there?

A. Been up there, and all of a sudden we were going to fleet the tackle around just when the ropes dropped. I got the rope ends, a whole turn of the rope for tying my falls up before they fleet before

(Testimony of Tom Mason.)

they let go from the capstan.

Q. Then the blocks dropped?

A. The blocks dropped.

Q. And she was off? A. And she was off.

Q. The vessel is over 250 feet long, is it not, the "Celtic Chief"? A. I haven't measured it.

Q. Wouldn't you judge so?

A. Might be. [1285—441]

Q. And the capstan was up at the bow of the vessel? A. Yes.

Q. And you had just come from the capstan, down from the poop? A. Yes.

Q. In order to take care of the tackles there?

A. Yes.

Q. How long had you been to the capstan before that?

A. I didn't stay very long, maybe five minutes.

Q. But you think you had been to the capstan about fifteen or twenty minutes before?

A. Might have been over fifteen or twenty minutes.

Q. But you think you had been there?

A. Might be.

Q. Cannot you try and remember? Don't you think you had been about fifteen or twenty minutes before when you answered the question?

A. I was just thinking might be I was there about fifteen or twenty minutes.

Q. You had been around the main deck, at any rate, fifteen minutes or half an hour before the vessel came off? A. Yes.

Q. Do you remember how long before that it had been that you had been on the poop, up there when

(Testimony of Tom Mason.)

Captain Miller way?

A. I don't recollect being up on the poop very often. Once in a while I go forward to see my tackle; sometime I take a walk up to the cabin poop to see my cables was still taut.

Q. How long before do you think it had been since you had been on the poop before the tackle was dropped? A. About half an hour or so.

Q. Now then, Captain, the bulwarks are about four and a half feet high, aren't they, on the main deck, the sides of the vessel? A. Yes.

Q. And there is a good deal of superstructure up forward on the main deck toward the bow?

A. Yes. [1286—442]

Q. What is there on the main deck?

A. There is a windlass there.

Q. What is there?

A. A very big windlass for heaving the anchor.

Q. And the engine-room?

A. No, house; forecastle.

Q. And the poop is up about seven or eight feet?

A. Yes.

Q. And the bulwarks rails from the main deck up to the poop? A. Yes.

Q. So that you've got a side of the vessel running to the main deck clear around the stern?

A. Clear around the stern.

Q. Where was that chock where the line of the "Arcona" came through, the forward line on the port side? A. Crossing underneath our blocks.

Q. Just about the break of the poop?

A. Yes, fastened on to the main mast.

(Testimony of Tom Mason.)

Q. And the "Arcona's" line on the starboard side came through the chock on the other side, did it?

A. Might be.

Q. On the main deck?

A. Of course, I haven't noticed. She might be fastened there and she might be out.

Q. You don't know where it came through on the port side. Now then, will you explain, Mr. Mason, how it was that you could see lines of the "Arcona" prior to the time during that half hour or so when you were on the main deck there prior to the time that the blocks dropped and the "Celtic Chief" came off, if the bulwarks rose up four and a half feet high and the poop up seven or eight feet high and you had the house between the deck of the vessel and the poop of the vessel, how could you see those lines from where you were?

A. I did see them up on the cabin deck. I saw them lines hanging.

Q. That was half an hour or so before?

A. That was half an hour or so before. [1287—443]

Q. From that time until the time she came off the reef, you didn't see those lines?

A. They was under the water.

Q. You didn't see them, did you, at all?

A. Didn't see.

Q. Can't you answer my question, during the half hour or so from the time you left the poop deck until you came down to the tackles, did you see those lines at all or lines of the "Arcona"?

A. I didn't see them at all.

(Testimony of Tom Mason.)

Q. So you don't know under what condition they were in for half an hour or so?

A. Well, I don't know.

Q. So that as far as you know those lines might not have been attached to the vessel at all?

A. It was attached to the vessel and running over-board. I saw from the stern of the "Arcona."

Q. By the way, you see right away the poop deck?

A. I saw it from the deck.

Q. How long before was that?

A. Half an hour or so before.

Q. After that you didn't see them at all?

A. I seen the line in the "Arcona" come there and busted the line and she went to anchor and got them two cables on. That I know that she got them on.

Q. Got that?

A. I know she got them on and they was on there before the time.

Q. Do you know the condition of those lines?

A. They were slack.

Q. But during this half hour you didn't see those lines?

A. I saw them on the cabin deck. I saw them again, was still hanging.

Q. That was half an hour or so before.

A. I was busy working getting the gear out of the way.

Q. And you didn't notice those lines?

A. I never took notice until the "Arcona" ran away with the ship.

(Testimony of Tom Mason.)

Wednesday, August 16, 1911. [1288—444]

Q. Mr. Mason, where did the Miller Salvage Co. line pass, over the side or the stern of the "Celtic Chief"? A. Cable?

Q. Yes. A. Passed over on the starboard side.

Q. On the starboard side?

A. Starboard chock.

Q. The Miller anchor line? A. Yes, sir.

Q. Did it go through the starboard chock?

A. Yes, sir, in the after chock.

Q. Now, just where is that starboard chock located on the starboard side of the "Celtic Chief"? What is the position of it?

A. The position is at the stern.

Q. How's that?

A. Starboard stern, laying just like that on the starboard stern.

Q. Did it go through a chock or not?

A. Went through a chock.

Q. What? A. Went through a chock.

Q. On the starboard quarter?

A. On the starboard quarter.

Q. Will you state whether or not that chock was on, through the bulwark on the main deck or over the poop? A. From the stern of the poop.

Q. Then it wasn't through the starboard chock?

A. It wasn't through the starboard chock.

Q. It was not through the starboard chock?

A. It was on the stern of the vessel.

Q. The cable passed over the poop deck?

A. Passed over the poop deck.

Q. Did any of the tackles, any of the blocks go up

(Testimony of Tom Mason.)

as far as the poop deck, or were they all on the main deck? A. They were all on the main deck.

Q. It was simply that the anchor line itself passed over the poop deck and connected with the tackles on the main deck? A. Yes. [1289—445]

Q. Now, in having charge of the tackles, your business was to attend to those blocks and so forth on the main deck? A. Yes.

Q. That was your main business? A. Yes.

Q. You were not obliged to go very often on the poop deck, were you?

A. Oh, yes, I went over the deck.

Q. What would you be doing on the poop deck?

A. If I have time to run and see my cable out of the stern, see if it's all right and come back again and tend to my blocks.

Q. About how often would you go to take a look at your cable?

A. Sometimes fifteen minutes, sometime quarter of an hour.

Q. Sometimes an hour? A. An hour.

Q. Sometime more than that?

A. Sometime half hour.

Q. Sometime a couple of hours?

A. Never hours.

Q. You had to keep pretty close watch of the blocks and the pulleys and the capstan and all that?

A. Yes.

Q. You didn't have time enough to take sights often? A. No, sir.

Q. You didn't attempt to see whether or not the "Celtic Chief" was moving by taking range lights or

(Testimony of Tom Mason.)

sights during the daytime? A. No.

Q. You didn't have time to do that?

A. Didn't have time to tend to that; that was different men.

Q. Did you observe what lightering was on there?

A. Light?

Q. Lightering of cargo, discharging of cargo.

A. I don't know exactly how much freight they took out, how much. They was working at the freight when we was tending to these tackles.

Q. You didn't take time to watch them? [1290—446] A. No.

Q. As a matter of fact, you don't know at all what they were doing?

A. After they got through that discharging the freight.

Q. On Wednesday, then, you didn't know what was going on in the matter of discharging cargo from the "Celtic Chief"? A. Yes.

Q. You were so busy with the tackles?

A. I was so busy with my rigging gear that I can't go and look over the hatch and look on the other side where they heaving the freight.

Q. But, nevertheless, it is true, is it not, that the tackle was clear over the deck to the stern?

A. Yes, all clear.

Q. And you were back and forth the whole length from time to time? A. From time to time.

Q. Still you were so busy that you didn't have time for anything else? A. Yes.

Q. You didn't have time to see where the swell was coming, from what direction?

(Testimony of Tom Mason.)

A. I didn't have time to look over the side.

Q. Once in awhile. You did go up several times. At least you went and looked at your own line to see how the Miller anchor line was getting along?

A. Yes.

Q. What did you mean, Mr. Mason, when you said it would have been better if the "Celtic Chief" had rammed into the "Arcona"?

A. Little better if we went into the "Arcona." That would tell that the "Arcona" wasn't doing nothing.

Q. Now, as a matter of fact, Mr. Mason, that is the real reason why you think the "Arcona" wasn't doing anything, because she lay still after the "Celtic Chief" came off? A. Yes. [1291—447]

Q. That's your real reason for saying she wasn't pulling? A. She didn't move.

Q. Because you think if she had been pulling she would have gone right out to sea with the "Celtic Chief"? A. Yes.

Q. The fact that the "Celtic Chief" in coming off the reef almost rammed the "Arcona," the "Arcona" not moving at all showed plainly that she was doing nothing, that she was just lying at anchor, and that's your only reason for saying she didn't do anything?

A. (Witness nods head to indicate "Yes.")

Q. The "Arcona," you say, kept a search-light playing all the time on the stern of the "Celtic Chief"? A. Yes, sir.

Q. Did she do that during the whole evening from the time it was dark until the "Celtic Chief" came off?

(Testimony of Tom Mason.)

A. She switched her light off once in awhile.

Q. And nearly the whole night the light was playing? A. It was. You could see everything.

Q. They kept that light the whole time?

A. Sometimes goes off half an hour and comes on again.

Q. What did you mean by saying that the "Arcona" was asleep and wasn't doing a thing? Didn't they do something?

A. That's got nothing to do with the propeller, the search-light.

Q. What you meant by saying she was asleep was that she didn't use her propeller? A. Yes.

Q. That's what you mean. Now, for whom would it have been better if the "Celtic Chief" had run into the "Arcona"? A. What?

Q. You said it would have been better if the "Celtic Chief" had run into the "Arcona." For whom would it have been better?

A. Well, it would have shown a little better.

Q. It would have shown better for whom—for Miller? [1292—448]

A. Because she never done anything. If she was pulling straight out to sea when the "Celtic Chief" jumped off, she would have went right on.

Q. It would have been better for the Miller Salvage Co. A. I didn't say it would.

Q. It would have shown better?

A. It would have shown better for everybody. A Government boat doing nothing.

Q. You were disgusted, were you, at the fact that

(Testimony of Tom Mason.)

the "Arcona," a Government boat, was doing nothing?

A. Right. Everybody says if she had run into the "Arcona" it would have been better if she did.

Q. Who said that? A. Everybody on board.

Q. Captain Miller?

A. Captain Miller himself and the pilot; everybody on board; even the natives and myself, too.

Q. You all thought so clearly, that this fact that she didn't move at all, she didn't move out of the way—

A. Didn't move out of the way.

Q. Showed so clearly that she was doing nothing that you thought it would have been better if the "Celtic Chief" had run into her?

Mr. WARREN.—I don't think it is competent evidence, asks for what others thought at that time,—at least not as to them.

The COURT.—Objection sustained.

Q. They all said this?

A. Yes, the people on board I hear saying if we run into the "Arcona" it would be better.

Q. You heard that remark generally by the people aboard? A. Yes.

Q. That would mean Capt. Haglund also and Capt. Weisbarth?

A. I couldn't mention you, of course. There was so many others on board and everybody said if we run into the "Arcona" it would have been better and I said that too myself. [1293—449]

Q. You all thought it would have been better if she had been out of the way entirely? A. Yes.

Mr. MAGOON.—I object; it's entirely immaterial.

(Testimony of Tom Mason.)

What's the object of prolonging this thing.

Mr. WARREN.—We have the same objection.

The COURT.—This question is simply repetitious.

Mr. OLSON.—Well, I'll withdraw that. Now, Mr. Mason, when you came off the reef, you observed, did you, that the "Arcona" was practically lying broadside to the "Celtic Chief"? A. Yes.

Q. So that as you came off you came up on the poop and you found that you were running down on the "Arcona"? A. Yes.

Q. That if you had gone directly ahead as far as the "Arcona" you would have rammed her on her port quarter? A. Yes.

Q. That's your testimony? A. Yes.

Q. Was she lying direct broadside?

A. Just like that. Head to "Kaimuki" and stern to "Kalihi" harbor. There's the ship lying like that.

Q. At right angles? A. Yes.

Q. She was directly at right angles?

A. She was lying like that and we came astern.

Q. It was just as if you were to look at that wall back of you and then this wall at the side. The "Arcona" would be lying with reference to the "Celtic Chief" just as that wall lies to the wall at the side?

A. The "Arcona" was lying like that and there's the stern of the "Celtic Chief" like that—almost square.

Q. Let's have you draw a picture of this. Now, draw the "Arcona" first.

A. I draw the ship first.

Q. Draw the "Celtic Chief" first; don't make it

(Testimony of Tom Mason.)

too large because otherwise you won't have room.

(Witness draws.)

Q. Can you mark that "Celtic Chief" or C. C., capital C., capital [1294—450] C. Mark that C. C. in the middle. Well, mark it C. C. Now, that's the diagram. Now, will you mark this C. C. to show that it's the "Celtic Chief"; that's the "Celtic Chief" now, is it, that you've marked C. C.? A. Yes.

Q. Now, put a large A where you have drawn the "Arcona."

(Witness marks on diagram.)

Q. Now, then, the line that you have here drawn out to a picture of an anchor, is the cable of the Miller anchor and that was attached to the stern of the "Celtic Chief"? A. Yes.

Q. And the stern of the "Arcona" is lying over the anchor?

A. Lying right on top of this block—

Q. Now, I'll mark here on your diagram of the "Celtic Chief" the bow of the "Celtic Chief." Is that correct? A. Yes.

Q. Now, I'll mark on the "Celtic Chief" diagram that you have made the word "stern" to show where the stern is. Is that correct? A. Yes.

Q. Now, I'll mark on the diagram of the "Arcona" the word "stern." Is that correct? A. Yes.

Q. And the word "bow," at the bow of the "Arcona." Is that correct? A. Yes.

Q. Now, I'll write over the picture of the anchor here the word "Miller." Is that correct?

A. Yes.

Q. Now, that is a correct diagram of just how the

(Testimony of Tom Mason.)

“Arcona” and the Miller anchor and the “Celtic Chief” were when you ran up on the poop and saw the “Celtic Chief” approaching the “Arcona”?

A. Yes.

Mr. OLSON.—I offer this diagram in evidence and ask that it be marked.

The COURT.—Very well. [1295—451]

Mr. OLSON.—Claimant’s Exhibit, Libellee’s Exhibit #3.

Q. Now, Mr. Mason, the “Mikahala” was, had her line attached did she not, about that time?

A. Yes.

Q. Where was that line attached?

A. Line attached?

Q. Where?

A. The line attached from side chock.

Q. And what side of the “Celtic Chief”?

A. On the starboard side.

Q. She had her line through the starboard chock?

A. Yes.

Q. And she was pulling in what direction from the “Celtic Chief”?

A. She was pulling that way.

Q. In what direction?

A. Pulling out to sea.

Q. On the starboard quarter of the “Celtic Chief”?

A. Yes.

Q. About how many points, would you say, to starboard? A. About five points.

Q. She was almost pulling direct astern?

A. She was almost pulling to the stern.

Q. She was lying out that way and that’s the way

(Testimony of Tom Mason.)

she was during the whole time that she was pulling that night? A. Yes.

Q. And the "Arcona" was between her and the "Helene"?

A. Between the "Mikahala" and the "Helene."

Q. Now, the "Helene" was on the port quarter?

A. Port quarter.

Q. Of the "Celtic Chief"? A. "Celtic Chief."

Q. How many points to port, would you say?

A. About three points.

Q. And the "Arcona" was just between?

A. Just between. [1296—452]

Q. And the Miller anchor line was just between?

A. Yes.

Q. How do you explain, Mr. Mason, that the "Arcona" could be lying broadside with her stern to the anchor line if the "Mikahala" was lying only five points to starboard?

A. She had plenty room between the "Helene" and the "Mikahala."

Q. How about the Miller anchor and the "Mikahala"?

A. Miller's anchor is away in the deep water.

Q. The "Arcona" was a long boat, was she not, a large cruiser? A. Yes.

Q. Four or five hundred feet long?

A. I guess not. Of course, I have not measured the ship.

Q. How long do you think?

A. Might be four hundred feet long.

Q. She was at least twice as long as the "Celtic Chief," was she not? A. Pretty near as long.

(Testimony of Tom Mason.)

Q. About twice as long?

A. Pretty near as long.

Q. Do you think she was as long as the "Celtic Chief"? A. I don't think.

Q. You think she was shorter?

A. I don't think the "Celtic Chief" was as long as the "Arcona."

Q. Might be a little over. She might be three hundred feet? A. Might be.

Q. And you wish to say, Mr. Miller, that she was lying astern over the Miller anchor? A. Yes.

Q. And, nevertheless, the "Mikahala" was lying five points. A. Might be more.

Q. How do you account for the fact, if she was lying five points to the starboard, that she could lie over the Miller anchor? A. Plenty of room.

Q. Did you see where the "Arcona" took her position in the [1297—453] afternoon when she put her anchor out ahead?

A. When she came first?

Q. When she put both of the lines aboard.

A. She laying crosswise, the same way that she was when she was laying, then she backed up and took away our place buoy.

Q. Now, when she got to position, was she lying to port, to quarter, or astern of the "Celtic Chief"?

A. When she got into her position she dropped her anchor, she took in the same way she was laying and she laid there.

Q. Was she astern of the "Celtic Chief" or was she to the port of the "Celtic Chief" or to the starboard?

(Testimony of Tom Mason.)

A. Pretty near to the stern. Pretty near halfway to the "Celtic Chief" stern.

Q. What I want to find out is this: did she lie off to one side or the other?

A. The full length of the ship was lying on the starboard side of the ship, but the stern was pretty near aft of the stern of the "Celtic Chief."

Q. And where did she drop her anchor?

A. She dropped her anchor right ahead of her.

Q. Off to the side, directly ahead of the "Arcona"?

A. I don't know what anchor she dropped. She must dropped the port anchor or she dropped the starboard anchor.

Q. She was lying broadside to the "Celtic Chief" then?

A. That's what I call broadside to the "Celtic Chief" when she got right on top of my anchor.

Q. Broadside to the stern of the "Celtic Chief"?

A. Yes.

Q. That's the way she lay. Then her anchor must have been somewhere in the neighborhood of the "Mikahala"? A. A little past the "Mikahala."

Q. But across the "Mikahala"?

A. Across the "Mikahala." [1298—454]

Q. The "Mikahala" must have been lying pretty well over the anchor-chain? A. Little back.

Q. Not out quite so far?

A. Not out quite so far.

Q. But if the "Mikahala" had sailed ahead she would have gone over the anchor?

A. She would have cleared the anchor.

(Testimony of Tom Mason.)

Q. She would have gone over the anchor-chain?

A. I couldn't say whether she got the anchor on the "Mikahala" bow or the side of the "Mikahala."

Q. How many lines did the "Mikahala" have attached to the "Celtic Chief"? A. One.

Q. Only one? A. Only one.

Q. Did you see that line? Did you examine that line?

A. I see a hawser lying from the "Mikahala" to the "Celtic Chief." I never went and looked at it what size line it was.

Q. It was a manilla hawser, was it?

A. It's a manilla hawser.

Q. But she only had one line?

A. Only had one line.

Q. Didn't have two?

A. No, I didn't take no notice of it.

Q. Why didn't you take any notice of it?

A. Well, I only seen that line.

Q. You weren't looking at the lines carefully enough to see whether or not the "Mikahala" had another one? A. No.

Q. You were not? A. No.

Q. How far away would you say was the "Arcona" line from the "Celtic Chief" before the "Celtic Chief" came off? About what distance?

A. I guess, I think it was about three hundred feet, three hundred yards.

Q. About nine hundred feet? A. Yes.

Q. Nine hundred to a thousand feet? [1299—455]

Mr. MAGOON.—He puts something into the wit-

(Testimony of Tom Mason.)

ness' mouth he doesn't say.

Q. Was it nine hundred or a thousand feet?

A. Well, about three hundred yards.

Q. Now, when the "Celtic Chief" came off and you were standing on the poop there and had gotten the Miller line clear of the "Celtic Chief," how near did you come to the "Arcona"?

A. Well, we were as far from here to that wall there.

Q. As far from you to that wall? That would be about twenty-five or thirty feet?

A. It might be a little more than thirty feet.

Q. About fifty feet? A. About fifty feet.

Q. You came within fifty feet from the "Arcona"?

A. I couldn't say exactly; fifty or sixty.

Q. Not any more than that?

A. Might be a little more than that.

Q. Might be two hundred feet?

A. Not more than two hundred feet.

Q. When you say to this Court that it was from you to that wall, that's what you mean?

A. Not this wall, a little further on.

Q. About the length of this room?

A. That's too close.

Q. Then the distance of this—

A. Might be half of this distance attached to that distance. We looked, we was pretty near on top of the "Arcona."

Mr. OLSON.—Will counsel admit that this room is twenty-six feet long?

Mr. WARREN.—Counsel for whom?

Mr. OLSON.—Well, I refer to counsel for all of

(Testimony of Tom Mason.)

the parties. Will you admit that the room to which the witness has been referring is forty-six feet long and about thirty-five feet wide?

Mr. MAGOON.—We'll admit that for the purposes of this case.

Mr. WARREN.—Yes. [1300—456]

Q. Then you say the "Celtic Chief" practically came to a stop?

A. I couldn't say it stopped right there, but we had time to take our cable and throw it overboard. Then the officers sung out to the "Arcona" to make steam and go ahead, hurry up.

Q. And she heaved her anchor?

A. She heaved up her anchor and started ahead.

Q. Now, as I understand it, by that time, by the time that you had come within this distance of the "Arcona," the "Mikahala" line had already been cut?

A. That is the time when we sung out to cut the "Mikahala" line. That's the time I heard. The Inter-Island had a foreman there on her. Somebody says, "Go ahead and cut away that line; get it clear before the 'Arcona' got its line taut."

Q. Did they do that?

A. They must have cut it or cast it loose.

Q. They did one or the other?

A. Either one or the other.

Q. You saw that the line was loose?

A. I see that the "Mikahala" was clear.

Q. And that was by the time that you had come as near to the "Arcona" anywhere from fifty to a hundred feet? A. Somewhere about there.

(Testimony of Tom Mason.)

Q. Up to that time you had come in a directly straight line right for the "Arcona"? A. Yes.

Q. Do you know how long it took to get the "Mirowira" off the reef?

Mr. MAGOON.—I object to that on the ground it's indefinite.

Q. How long was it from the time that the "Mirowira" went on till she came off?

A. I got no idea.

Q. You don't know? A. Don't know.

Q. Have you no idea?

A. I was working there. I told you I was working there two days for Medcalfe.

Q. You don't know how long it was after that that she came [1301—457] off?

Mr. MAGOON.—I object to it because it is indefinite.

Q. Do you know how long after the time that you were on board the "Mirowira" with Medcalfe it was that the "Mirowira" came off?

A. I was ashore here getting something when I see the "Mirowira." She was out to sea.

Q. You weren't on her at the time she came off?

A. No.

Q. How long had you been off of her?

A. I was ashore here about four hours.

Q. You had been aboard for two days?

A. Worked two days.

Q. Then you came off and were off about four hours when she actually came clear of the reef?

A. Yes.

Q. So you were not there at the time she came off?

(Testimony of Tom Mason.)

A. I wasn't there.

Q. So you don't know how she actually came off of your own knowledge then? A. I don't know.

Q. Do you know how long Medcalfe had been working on the "Mirowira" before you went on board to help him? A. Might be three days.

Q. Three days before you came on board. Now, do you know how long she had been ashore before you came on her.

A. There was people working there and they gave it up. They had a concern there with tackles—

Q. I'm not asking you, Mr. Mason, what they were doing there. I'm asking you how long she had been ashore up to the time that you were employed on her.

A. Before that I know she was on there about three or four weeks.

Q. Three or four weeks? A. Before I went on.

Q. You say the "Kaimiloa" lost one of her bitts?

A. Chocks. [1302—458]

Q. One of her chocks?

A. Pulled one of the chocks out.

Q. And one of her lines broke?

A. Yes, the stern line.

Q. Was it while she was alongside of the "Celtic Chief" taking cargo from her? A. Yes.

Q. Do you know the "Kaimiloa" pretty well?

A. Yes.

Q. She's an old boat, is she not? A. Yes.

Q. Did you observe the place where the chock was torn away? Did you see the place where it was torn away? A. Yes.

Q. Did it show that it was more or less old timber about it?

(Testimony of Tom Mason.)

A. Pretty old. The boat was old and the bitt was pretty old.

Q. A little tugging like that would pull it off pretty easily?

A. A little tugging like that would pull it off pretty easily.

Q. Being an old boat? A. Being an old boat.

Q. What kind of a line was this?

A. Manilla rope.

Q. What kind of a rope? A. Pretty old.

Q. It was an old line? A. Pretty old line.

Q. And do you know its size?

A. About eight inches. Eight inches in circumference.

Q. You said something about the size of your thumb.

A. That's what I see later, brand new one and it looks pretty small for a big ship like that to come out there and try to get the "Celtic Chief" off.

Q. It looked pretty small to you? A. Yes.

Q. You saw both of those lines?

A. Made at the same time when he come back with the other.

Q. You know there were two lines?

A. I saw both of them. [1303—459]

Q. And they were the same size? A. Yes.

Q. Would you say they were less than inch, inch and a quarter?

A. I think about three or four inches.

Q. You think they were about three or four inches around? A. Yes, sir.

Q. And after this salvage experience you had on

(Testimony of Tom Mason.)

the "Mirowira" you regarded them as pretty small wire to use in the "Celtic Chief" case?

A. The "Arcona" wire?

Q. Yes.

A. It's pretty small for the size of the Miller Salvage Co.'s cable.

Q. The two of them together wouldn't, would make, give considerable more strength to the lines of the "Arcona" than the wire, would they not?

A. If they doubled that "Arcona's" wire, doubled it together, wouldn't be half as big as the Miller Salvage Co.'s cable.

Q. It wouldn't? A. No.

Q. How large was the Miller Salvage Co.'s cable?

A. Pretty near as big as that. (Indicating.)

Q. How many inches?

A. About seven or eight inches.

Q. Seven or eight inches around? A. Around.

Q. You don't think that these two wires that you have spoken of, each of which was about four inches, would be as large as this one line of the Miller Salvage Co.? A. I don't think so.

Q. The only salvage experience that you have ever had in the course of your sailorizing was on the "Mirowira"? That's correct?

A. I'd been rigging heavy purchases before.

Q. In salvage vessels?

Mr. MAGOON.—Let him answer.

Mr. OLSON.—What did you say? [1304—460]

A. I'd been rigging heavy purchases before.

Q. Have you ever had any salvage experience before?

(Testimony of Tom Mason.)

A. Not taking a ship off the reef. When I'm working—

Mr. MAGOON.—Let him answer.

Mr. OLSON.—Go on. I withdraw my last question and put it this way. Confine yourself absolutely to the question that I'm asking: Have you had any other salvage experience than that you have testified to on board of the "Mirowira"?

A. That's the only time that I went to work with Medcalfe to pull a ship off.

Q. That's the only salvage experience you've had?

A. Yes.

Q. What did you mean when you said that Dick, what was his name? A. Clarke.

Q. What did you mean when you said that Dick Clarke had more men than he could handle?

A. I didn't say that.

Q. What did you mean when you said on direct testimony that he had more men or that he had too many men?

A. He is the foreman *from* the laborers. I said that he had more men than I had. I only had that thirty-five or thirty-seven men out on the "Celtic Chief," but I didn't count how many men Dick Clarke had on board.

Q. When you started in rigging up the tackle on board the "Celtic Chief," how many men were there helping you get that rigged?

A. Getting the stuff on?

Q. The tackle rigged up on the "Celtic Chief."

A. Well, I had my full crew.

Q. Thirty-seven men? A. Thirty-seven men.

(Testimony of Tom Mason.)

Q. What were Dick Clarke's men doing?

A. Well, they was on board the "Celtic Chief."

Q. What were they doing?

A. They was discharging freight.

Q. Did that same discharging of freight on Wednesday? A. Yes.

Q. All day Wednesday?

A. We got out there, I didn't [1305—461] see them when they was working all day Wednesday.

Q. Why didn't you see them?

A. Because I was inside the wharf. I was there at the wharf.

Q. Wednesday, getting the anchor. I mean Tuesday.

Q. What about Wednesday?

A. We were getting the anchor getting ready with the anchor and the cable.

Q. You started off in the morning of Wednesday, rigging up that tackle? A. Yes.

Q. Where were Dick Clarke's men then?

A. On board the "Celtic Chief."

Q. What were they doing?

A. Working on the freight.

Q. Discharging freight?

A. Discharging freight.

Q. Into the Miller Salvage boats?

A. No, into the Inter-Island.

Q. All day Wednesday? A. I don't know.

Q. You were on the "Celtic Chief"?

A. I was there attending to my work.

Q. But you didn't see the men at work?

A. I couldn't look around for the other men.

(Testimony of Tom Mason.)

Q. But Dick Clarke's men were not helping you?

A. My own men were helping me.

Q. They were the men who were tending to the tackle and heaving on the capstan? A. Yes.

Q. Your men, your thirty-seven?

A. My thirty-seven men and Dick's crowd came to give me a hand.

Q. When did they get on? A. In the afternoon.

Q. About what time?

A. Might be one o'clock or two o'clock.

Q. How long did his crew stay with you?

A. Which crew? [1306—462]

Q. How long did Dick's crew stay with you?

A. They stayed until the "Celtic Chief" came off the reef.

Q. All Wednesday afternoon and Wednesday night? A. Yes.

Q. How many men did you have at that time, heaving in on the capstan?

A. Sometimes we have fifty on the capstan.

Q. What were the rest of the men doing?

A. They was taking a rest when they got tired out.

Q. What was the size of the hawser, the line that the fall, the line running from the third block to the capstan? A. Third block?

Q. Third tackle to the capstan.

A. Do you mean the first block or the third block?

Q. What was the line that went to the capstan from the tackles? A. Five inch.

Q. A five-inch, manilla hawser?

A. Five-inch, manilla hawser.

Q. Did you examine that line?

(Testimony of Tom Mason.)

A. I didn't exactly examine it.

Q. You don't know whether it was new or old?

A. It was a brand new manilla rope.

Q. It had never been used before? A. No.

Q. You are sure of that? A. Sure of that.

Q. And what distance was the capstan from the block through which this line passed?

A. Well, may be about twenty-five feet from the capstan.

Q. Twenty-five feet.

A. Maybe a little more.

Q. That was the line, was it not, that was the only line that connected the capstan with the tackles?

A. Yes.

Q. Now, that line passed through the block and went from [1307—463] there where?

A. To the other.

Q. To the other block? A. To the other block.

Q. And it passed back and forth through those two blocks twice? A. Yes.

Q. What was that line then that was connected to that line? A. The main fall.

Q. And what kind of a line was that?

A. That was eight-inch.

Q. Manilla hawser? A. Yes.

Q. And that eight-inch manilla hawser passed through another block, did it not? A. Yes, sir.

Q. What block was that?

A. That's the main block.

Q. And that then went from that block back to another back and forth three times? A. Three times.

Q. Then what was that connected to?

(Testimony of Tom Mason.)

A. Connected on to the second block, the fall.

Q. Connected on to another fall?

A. Another fall.

Q. What was the size of that rope?

A. It was six or seven inch.

Q. Six or seven inch one? A. Yes.

Q. That was a manilla hawser? A. Yes.

Q. A new one or an old one? A. New one.

Q. It was new? A. New.

Q. Six or seven-inch manilla hawser? A. Yes.

Q. That went through another block?

A. Yes, three times.

Q. And went back and forth three times between the two. Connected the blocks? A. Yes.

Q. Then that was attached, was it not, to the steel wire cable which connected the anchor? [1308—464

A. Yes.

Q. So that you had the five-inch manilla hawser coming to the capstan? A. Yes.

Q. You had a six or seven inch manilla hawser going to the wire cable on the other side?

A. Yes.

Q. And the tackle in the middle had an eight-inch manilla hawser which connected those two small—

A. The main block was eight inch and the other six or seven inch. Then the other one going to the capstan.

Q. I'll repeat what I've said. The line from the capstan to the tackle was a five-inch manilla hawser?

A. Five inch.

Q. That is correct. Now, going to the other side from the wire cable, from the anchor to the tackle on

(Testimony of Tom Mason.)

the other side, was a six or seven inch manilla hawser? A. Yes.

Q. In the middle is an eight-inch manilla hawser?

A. In the middle is six or seven inch, the main tackle is eight inch.

Q. I'm not asking you about any main tackle. I'm asking you about the line which was attached to the tackle. A. That was eight inch.

Q. And that went through the main tackle?

A. Yes.

Q. And next to that was *connect* the six or seven inch cable? A. Yes.

Q. To that was a five-inch line which went to the third block and went to the capstan? A. Yes.

Q. And they were all brand new line that had not been used?

Mr. MAGOON.—I object to that it is repetitious.

Q. Will you answer my question? They were all brand new manilla hawsers?

A. They were brand new. [1309—465]

Q. None of them had been used before?

A. They might have been used once.

Q. They might have been used once?

A. Once, the eight inch.

Q. So that was not a brand new—

A. Might be a new line, was taken out of the store.

Q. It might have been used before?

A. The rope was new.

Q. It might have been used before?

A. Might been used one time.

Q. Or two times before? A. Might be.

Q. Several times before?

(Testimony of Tom Mason.)

A. Might be; I don't know.

Q. What about this steel cable that went to the anchor, had that been used? Was that a new steel cable or was it one that had been used before?

A. One that had been used before.

Q. One that had been used before?

A. It was black up with tar, I couldn't see, but the inside of it—

Q. What kind of a wind was blowing on Monday, Tuesday, and Wednesday? From what direction?

A. I don't remember.

Q. You remembered on direct examination.

A. The wind is always from the eastward.

Q. It was an easterly trade on your, you said on direct examination, did you not? A. Yes.

Q. You are sure of that?

A. I can't remember it.

Q. You can't remember it?

A. Can't remember it.

Q. But that's your recollection now, that it was an easterly trade wind? A. Easterly trade wind.

Q. You are not sure that it was not a southerly wind? A. No.

Q. It was not a southerly wind?

A. If it was a southerly wind, the "Celtic Chief" would [1310—466] have been thrown on the reef.

Q. Why so?

A. The swell would be more bigger and that swell throw her sideways.

Q. As there was there was no tendency to throw her on sideways?

A. There was sea but the big boat held her in posi-

(Testimony of Tom Mason.)

tion. The Inter-Island got hold of it, then the Miller Salvage Co. put the anchor down, then made sure that would save her,—the sea wouldn't throw her on the side.

Q. The "Arcona" didn't have anything to do with it, did it? A. The "Arcona" didn't do much to it.

Q. Didn't do anything at all?

A. No. When she dropped that line she attached it.

Q. After that she was doing nothing at all?

A. She was useless.

Q. Useless?

A. He might have been tied to the wharf.

Mr. OLSON.—That's all.

Cross-examination of TOM MASON on Behalf of
Libellants *Inter-Steam* Navigation Co. and
Matson Navigation Co.

Mr. WARREN.—Q. Now, Mr. Mason, in your work out on the "Celtic Chief," from whom did you receive orders? A. Receive orders.

Q. Who gave orders to you out on the "Celtic Chief"? A. Well, that's my boss.

Q. Miller? A. Miller.

Q. Did Mr. Miller give the orders directly to you?

A. Well, he give me orders first, if he wanted get the anchor to place, get it into place.

Q. I'm asking who was directly in charge of the work? You received orders from Captain Miller?

A. From Captain Miller. [1311—467]

Q. How about Captain Wiesbarth?

A. We was working together for Captain Miller.

Q. Captain Weisbarth worked there with you?

(Testimony of Tom Mason.)

A. He was working with me but he didn't give no orders.

Q. Did he give any orders to any other men that were working there, Miller's men?

A. Told them, "Hurry up, heave away."

Q. He never gave you any orders?

A. He never gave me any orders.

Q. Was Captain Weisbarth working himself?

A. Yes, he was; all working.

Q. Was he working as a laborer?

A. Helping sometimes. Sometimes he helped me.

Q. To whom did you give orders?

A. I give to them.

Q. To whom, Captain Weisbarth?

A. Weisbarth. Told him what to do, what I want to do; sometimes Dick, so forth.

Q. You gave orders to Dick Clarke as well?

A. Yes, what I want him to do. If I want men, more men to help me I give Dick orders to send some men to help me fleeing the tackle.

Q. That is, you were personally in charge of the rigging? Of the tackles and blocks and rigging on the "Celtic Chief" in connection with that anchor line? A. Yes.

Q. And Captain Weisbarth was under your orders?

A. Not exactly under my orders. When I want him to do something I ask him, "Please come over her, Weisbarth, and help me."

Q. What was Captain Weisbarth doing with other men on board?

A. Well, like this, he's a captain.

(Testimony of Tom Mason.)

Q. Who was captain?

A. He was captain of the [1312—468] "Makee."

Q. I'm talking about on the "Celtic Chief."

A. Well, so when the men see when he gives out any orders—

Q. When who gives out any orders?

A. Weisbarth. And the men listen to him just as well as me, just as well as the foreman.

Q. Now, in what matter and in connection with what work did Captain Weisbarth give orders?

A. Well, from Captain Miller. If Captain Miller give order to Captain Weisbarth to do things he goes and tell the men.

Q. And Captain Weisbarth was next in authority under Captain Miller? A. Yes, sir.

Q. Then Captain Weisbarth and not you were really in charge of the operations on the "Celtic Chief"? A. Eh?

Q. Captain Weisbarth rather than you were really in charge of those operations on the "Celtic Chief"?

A. Well, I was in charge of that tackles.

Q. You were in charge of the cable? A. Yes.

Q. Were you in charge of the blocks and tackles?

A. Yes, I was the rigger on board of the "Celtic Chief" for the Miller Salvage Co.

Q. Were you in charge of the capstan?

A. There's a foreman over these men.

Q. Who is the foreman? A. Dick Clarke.

Q. And you were only in charge of the rigging?

A. I am in charge of the block; sometimes I run up to the capstan and give him a hand.

Q. What do you mean you were in charge of the

(Testimony of Tom Mason.)

rigging? The way it was rigged up or the work? What do you mean by the expression that you were "half-ass boss."

A. I was half-ass boss under Dick with the labor.
[1313—469]

Q. What do you mean by that?

A. Well, I was under him.

Q. You were under who?

A. Under Dick Clarke at the first.

Q. And you were under Captain Weisbarth, were you not? A. Me?

Q. Yes.

A. Well, only the first time. When I commenced to rigging I was the boss then of the rigging part.

Q. When you commenced rigging?

A. Yes, when I commenced rigging my tackles.

Q. And as soon as you began rigging up your tackles then you became boss?

A. Then I came higher than them because I understood more of the rigging purchase than the others. Of course, Weisbarth, he might know little more than me, he been an old sailor, an old sea captain, but I think because he was captain of the "Makee" he just go ahead to give me a help.

Q. Were there any orders given at all to you, any orders given at all to you by any one how the tackle should be rigged up?

Mr. MAGOON.—Now, I object, may it please your Honor, because it's perfectly useless.

The COURT.—It's for them to decide what benefit the evidence is to be.

A. I don't know of anybody's orders but except Captain Miller.

(Testimony of Tom Mason.)

Q. Well, did Captain Miller give any orders about how that tackle was to be rigged?

A. He says, "Now, you rig the thing up. What you know you do and I trust you to do it."

Q. After that he gave no orders?

A. He gave orders to the others to stand by when Tom says "Heave away, go ahead; keep on doing it doing it till we get the ship out." [1314—470]

Q. Had you ever worked for Captain Miller before? A. Sir?

Q. Had you ever worked for Captain Miller before?

A. Yes, after I got through with the Inter-Island.

Q. What's that?

A. After I got through with the Inter-Island. He's the first man sent for me to come and work for him.

Q. That was before?

A. That was before the "Celtic Chief" had anything to do, before the "Celtic Chief" came on the reef.

Q. How long did you work for Captain Miller before the "Celtic Chief" occasion?

A. I worked five months.

Q. Then you were not in his employ when the "Celtic Chief" went ashore?

A. I was two weeks he laid me off because he didn't have work, nothing for me to do, and he laid me off for two weeks, and when the "Celtic Chief" come ashore of course he was busy picking up, can't get out, and he didn't have time to see me.

Q. He was looking for you?

(Testimony of Tom Mason.)

A. He wasn't exactly looking for me. When I got down to the wharf the "Concord" was towing out. Captain Weisbarth was on the "Concord."

Q. In what capacity did you work with Captain Miller before? What kind of work did you do for Captain Miller before?

Mr. MAGOON.—I object to it as irrelevant and immaterial.

A. I only mate with Captain Weisbarth for him, for Captain Miller.

Q. Mate for Captain Weisbarth?

A. Mate to Captain Weisbarth under him to help on the "Concord" for Miller.

Q. When Captain Miller engaged you to go out to the "Celtic Chief" to get out fertilizer, what was your work to be? Were you in charge of any other kind of work or were you engaged to work as a laborer?

A. I was on board of another ship. That was the "Kaimiloa." [1315—471]

Q. You were working as a laborer slinging sacks of fertilizer?

A. Yes, and tending to the men at the same time.

Q. You were in charge of that how long?

A. I was in charge of the—I had thirty-seven men.

Q. When you were working unloading fertilizer you were in charge?

A. We discharged, unloaded. We was loading from the "Celtic Chief" on to the "Kaimiloa" with the thirty-seven men.

Q. You were one of the thirty-seven?

A. I was the thirty-eight.

(Testimony of Tom Mason.)

Q. And who was in charge of the thirty-seven men?

A. I was.

Q. You were in charge of that unloading gang?

A. Yes.

Q. What became of your thirty-seven that you had? On Tuesday where were they?

A. Got them mixed up with the other men on the "Celtic Chief."

Q. They were on the "Celtic Chief" on Tuesday, were they?

A. Yes, and I went back, enough crew on the "Makee." Tuesday they are discharging the "Makee."

Q. What were they doing on the "Celtic Chief," if you know?

A. They were discharging freight on the "Helene." Our boats and the Inter-Island they was all mixed up.

Q. Captain Miller's men?

A. Captain Miller's men and the Inter-Island men.

Q. Sling it out of the hole and load it into the Inter-Island boats?

A. Loaded into the Inter-Island boats, some of them.

Q. Your thirty-seven men?

A. Half of my thirty-seven men were with Dick, the foreman. I don't know what he done or whether he left them on the "Celtic Chief." [1316—472]

Q. When did you leave them on the "Celtic Chief"? A. On Tuesday.

Q. What time on Tuesday? A. I couldn't say.

Q. Morning or afternoon?

(Testimony of Tom Mason.)

A. Left there in the morning. We came to the wharf.

Q. Was it before daylight or after daylight?

A. Before daylight.

Q. About three or four o'clock in the morning?

A. About five o'clock. Five o'clock, near that it seemed to be.

Q. You came in on the "Kaimiloa" or on the "Makee"? A. "Makee."

Q. And you went out on the "Makee" on Monday?

A. I went out on the "Kaimiloa" on Monday.

Q. And you came on the "Makee"?

A. Came back Monday night and left the "Kaimiloa" at the cattle-pen, Dillingham wharf. We took that steam launch on the "Makee" work. By night, that night, early in the morning we left there.

Q. You left half of your thirty-seven men on board? A. On board.

Q. And took the other half of the thirty-seven men back with you on the "Makee"?

A. On the "Makee" and I don't know what they done with the other men working on the "Celtic Chief" that day.

Q. You don't know yourself what they were doing?

A. Don't know.

Q. When you say the rest of your men were loading fertilizer on the Inter-Island boats—that's what you believe.

A. I didn't have no information where the men was, the other men. What we had on the "Makee" when we got ashore we had to let them go and get something to eat.

(Testimony of Tom Mason.)

Q. Now, when you came back with the "Makee" on Tuesday morning and went to unload her, you got her unloaded, you [1317—473] say, about five o'clock in the morning, Tuesday? What time did you get back with the "Makee" on Tuesday morning?

A. We got alongside the wharf about somewhere six or seven o'clock with the fertilizer.

Q. When did you get her unloaded?

A. We got her unloaded somewhere about ten or eleven o'clock.

Q. Where was Captain Miller then?

A. Captain Miller went ashore some place. He was all around the ship sometimes; sometimes you can't see him at all. He was getting the cable off.

Q. Now, when you left the "Celtic Chief" on Tuesday morning with the "Makee" where was Captain Miller then? A. He was around the deck.

Q. He was aboard the "Celtic Chief" on Tuesday morning?

A. Might be he skipped off on the steam launch because I'm busy working down the hole with the men getting the cargo out.

Q. After you left the "Celtic Chief" with the cargo on Tuesday morning, did you see Captain Miller? A. When we got the big anchor on.

Q. You saw him when you got the big anchor on?

A. Yes.

Q. That is, from whom did you receive orders to get on the big anchor? A. From Captain Miller.

Q. What time was that?

A. That's about eleven o'clock.

(Testimony of Tom Mason.)

Q. That was about the time you got the "Makee" unloaded?

A. Yes. He was going up in the yard and got the big anchor and we got all the cables in, the blocks and tackles, everything on board and he go up in the yard and got the big anchors down.

Q. Where was the yard?

A. The yard was down to Iwilei.

Q. And where were the tackles?

A. The tackles were on the little storehouse he has on [1318—474] the Hackfeld wharf.

Q. Wasn't the anchor there too?

A. No, the anchor wasn't there.

Q. To whom did Captain Miller give orders to get the anchor out?

Mr. MAGOON.—It's entirely immaterial.

The COURT.—Objection overruled.

Q. Did Captain Miller give the orders to you to get the anchor out?

A. Give it to me and Captain Weisbarth. He says, "You two men look after the things get the wire cable on board."

Q. At that time when Captain Miller gave those orders to you, Captain Weisbarth and Captain Miller were there? A. Yes.

Q. He spoke to you? A. Yes.

Q. Had you before that time received any orders or hear Captain Miller say anything about getting an anchor or tackle?

A. We had a talk about that Tuesday before we came in.

Q. Where? A. Down to the "Celtic Chief."

(Testimony of Tom Mason.)

Q. Where did you get the orders?

A. When I got the orders on the Hackfeld wharf when I got the "Makee" discharged.

Q. He didn't give you those orders on the "Celtic Chief"?

A. He spoke about going and discharge the freight and get the anchors and the cables.

Q. That's when he gave the orders?

A. Well, he didn't give the proper orders then. We knew what to do. After we get the freight out then he gave the strict orders.

Q. So up to that time on the Hackfeld wharf you didn't know what to do and you were waiting for further orders?

A. Till he come down and he tell us what to do.

Q. And you were waiting for him to give further orders?

A. That is the talk on the "Celtic Chief," we go and get [1319—475] the anchor, but he never give us no more orders. We don't know where the anchor was.

Q. He didn't tell you where the anchor was?

A. No.

Q. You didn't know?

A. I didn't know. He mentioned in the yard. Well, that's the only place he had at Iwilei to put anything away.

Q. Then you did know where the anchor was?

A. Eh?

Q. Then you did know where the yard was?

A. I didn't know where the yard was but that's his place down there when he was working with the

(Testimony of Tom Mason.)

Oil Company. He had his things there.

Q. Did you know that anchor was down there at that place? A. Yes.

Q. Why did you say you didn't know where the anchor was?

A. I didn't say the anchor was really down there but I know where the place it was landed.

Q. But you didn't intend to do anything until you got further orders on the Hackfeld wharf?

A. When I got orders from Captain Miller.

Q. And you got all the big blocks on the "Makee" and when he got the anchor at the Hackfeld wharf they had to cut the Hackfeld gate post to get it in, to get it on the wharf?

A. To get it on the wharf alongside the "Makee."

Q. So Captain Miller took charge of putting the anchor on?

A. He gave orders to Billy Hoogs people. He simply hurried them to go and get the anchor and bring it down to Hackfeld wharf where the "Makee" was lying.

Q. About what time did that anchor get down to the Hackfeld wharf where the "Makee" was?

A. About half-past two. I couldn't say exactly.

Q. As nearly as you can remember?

A. Just as soon as the anchor was on the wharf we just got [1320—476] a strap on and hove it on the deck.

Q. In the meantime you were getting the tackles?

A. In the meantime the tackle was on board. We were waiting for the anchors.

Q. When you got the anchor on then you started

(Testimony of Tom Mason.)

for the "Celtic Chief"?

A. We didn't start for the "Celtic Chief." Wait a minute. The inspector off the steam. They took the valve away so the engineer couldn't get the steam on the "Makee" so we had to turn around the "Mokolii" to pull us outside to the "Celtic Chief." We went out there too late for doing anything.

Q. About what time did you start out with the "Mokolii"?

A. Well, five o'clock. I couldn't exactly say five o'clock. It might be a little later or little sooner.

Q. Now, you got the anchor on board sometime along half-past two or three and started out about five. Was anything being done in the meantime about, touching the tackle and anchor?

A. On the way out we straightened the cable on deck.

Q. While you were lying there waiting for the "Mokolii"? A. No, sir.

Q. While you were lying there waiting from half-past three to five what was being done?

A. The "Mokolii" was away on the other side.

Q. What were you doing on board the "Makee"?

A. We was clearing up the deck.

Q. Do anything with the anchor and cables, tackles?

A. We was working on board the "Makee" getting the stuff on after we got it on there was no steam.

Q. I thought you said you had all the tackle on board before the anchor arrived?

A. Look here. We put the freight on the deck. There was nothing put there right. After we got

(Testimony of Tom Mason.)

them on the deck we go and place them out. [1321—477]

Q. That's what you were doing from half-past two or three o'clock to five? A. That's right.

Q. When you got out to the "Celtic Chief" that evening, was the anchor at that time attached to your cable? A. It was hooked on.

Q. It was hooked or shackled on?

A. Shackled on ready for the next morning to drop.

Q. Did you receive any orders from Captain Miller as to the time you were to drop that anchor that night or next morning?

A. When we was lying that night he want to drop the anchor there.

Q. I'm asking you did you receive any orders from Captain Miller as to the time that anchor was to be dropped?

A. I only heard Captain Miller say might as well drop the anchor.

Q. Captain Miller was on board the "Makee," was he, or the "Mokolii"?

A. He was on the "Makee."

Q. And the first you knew about the anchor being dropped was when he says "Drop out here"?

A. I says, "No, this is not a good place."

Q. What place was that?

A. Way down to the leeward of the "Helene" and "Likelike."

Q. That is to the port side?

A. To the port side.

Q. Ewa side? A. Ewa side.

Q. About how many points, do you think.

(Testimony of Tom Mason.)

A. It's almost a quarter of a mile away from the "Celtic Chief."

Q. In what direction from the "Celtic Chief's" stern? A. Outside, to sea.

Q. But was it dropped there?

A. No, it was picked up from there.

Q. Where was it dropped that night?

A. Dropped right on the bow. [1322—478]

Q. Where?

A. Right at the bow. Didn't drop it at the stern.

Q. Bow of what? A. Bow of the "Makee."

Q. Where with respect to the "Celtic Chief"?

A. Eh?

Q. Where was it with respect to the "Celtic Chief"? A. Six o'clock in the morning.

Q. Where did you drop it that night.

A. We dropped it to hold the "Makee."

Q. To anchor the "Makee"? A. Yes.

Q. Where with respect to the "Celtic Chief"?

A. The "Celtic Chief" was lying that direction then the "Makee" was lying this direction. (Indicating.)

Q. Off the port quarter you mean?

A. Off the port quarter.

Q. The "Makee" was to the port quarter of the "Celtic Chief"? A. Yes.

Q. Now, how far from the "Celtic Chief"?

A. I should say about five or six hundred yards.

Q. Five or six hundred yards? Nearer five or six hundred than three hundred?

A. More than that. I didn't have the rule to measure it.

Q. You objected to that anchor being dropped?

(Testimony of Tom Mason.)

A. That's only dropped to hold the "Makee" till the next morning.

Q. Then you didn't go up to the "Celtic Chief" that night? A. No.

Q. Did the "Mokolii" go up to the "Celtic Chief" that night? A. Not that I know of.

Q. You were on board the "Makee"?

A. I was on board the "Makee."

Q. You stayed on board the "Makee"?

A. I stayed on board the "Makee." [1323—479]

Q. I understood you to say *that went* on board the "Celtic Chief" that night and rigged up your lash-ing. You didn't go aboard the "Celtic Chief" that night?

A. Excuse me. You got me there. The time we dropped the anchor I took a boat and my strap and went aboard the "Celtic Chief" and it didn't take me over three-quarters of an hour or an hour to rig them things up and come back and I stayed on the steamer. The Captain says to me, "You get them things aboard," and I says, "Yes."

Q. About what time did you go aboard that night in your small boat.

Mr. MAGOON.—Aboard what.

Q. "Celtic Chief."

A. That's after—might be six or seven oclock that night.

Q. Right immediately after you got out there?

A. Yes.

Q. That was the time you rigged up this strap from the foremast over to the bitt? A. Yes.

Q. To which you next day attached your block?

(Testimony of Tom Mason.)

A. Yes, in the morning when we got the thing over the anchor heaved up and went over above the "Helene" and in range of the "Celtic Chief" we dropped the anchor.

Q. Now, that night, Monday, Tuesday night, do you know whether Captain Miller went aboard the "Celtic Chief"?

A. I don't think. No. That is, I'm not sure. So long from that time to this time that a man would forget something. He might have went over on board. He might not. The man was pretty tired, every minute all day Monday and night, and he was pretty tired and I think he took a rest on the "Makee."

Q. You don't think he went on board that night?

A. I don't think so. He might slip out without me knowing.

Q. So far as you know he did not?

Mr. MAGOON.—I object to this; he has answered it.

A. He might went aboard. He might not. [1324—480]

Q. As far as you know he did not?

A. Can't prove it. I wouldn't say no or yes. When I see the man going over to the "Celtic Chief" I says, "Yes." I don't think that Captain Miller went on board that night.

Q. That's what I want to know.

A. I don't think so. I can't prove to you.

Q. Was there any effort made that night to get a line on board the "Celtic Chief"?

Mr. MAGOON.—We don't claim there was.

(Testimony of Tom Mason.)

The COURT.—Proceed.

Q. Was there any effort made to get a line on board the "Celtic Chief" that night?

A. No, it was too late to run our cable. We dropped that anchor off the "Makee's" bow. That's the anchor that held it.

Q. The next morning you received orders from Captain Miller to move the anchor?

A. Yes, to heave it up under the bow, when he says, "Well, Tom," he says, "we pick up the big anchor and we run up to the place where you see is good. You sing out and you drop the anchor," and he says, "Don't drop it too close now. Plenty cable," he says, "The farther you drop it the better it is." I says, "Yes."

Q. Before that time, on Tuesday morning, do you know whether or not Captain Miller had gone over to the "Celtic Chief"? A. What?

Q. Did Captain Miller go over to the "Celtic Chief" on Tuesday morning before your anchor was picked up? Wednesday, I mean?

A. Might be he went over on Wednesday; I don't know.

Q. You think he did?

A. He must have went over. I can't say that I seen the Captain going over. He must have gone over there when I was busy getting up something out of the hole.

Q. He left the "Makee," did he? [1325—481]

A. Eh?

Q. He left the "Makee" that morning?

A. I couldn't remember it that he left the "Makee" that morning.

(Testimony of Tom Mason.)

Q. Who gave the order for dropping the anchor at the precise spot where it was dropped on Wednesday morning?

A. We steamed up. I was Captain. We didn't steam up; we had the "Mokolii" tow us and when I see it was direct to the "Celtic Chief" stern I sung out, "Captain, this is a good place."

Q. Now, when you dropped anchor Tuesday night, did you observe the Inter-Island vessels in that neighborhood? A. Eh?

Q. Did you observe the Inter-Island steamers there on Tuesday night? A. Yes.

Q. Where was the spot that you dropped the Miller anchor on Tuesday night. Which side of the "Likelike"?

A. Side of the "Likelike" was port of the "Likelike."

Q. Ewa of the "Likelike"?

A. Ewa of the "Likelike."

Q. Was it further or nearer the "Celtic Chief" than the "Likelike"?

A. That was farther away from the "Celtic Chief" than the "Likelike"; might be two ship-lengths from the "Likelike" so we could swing around. If there's a collision over there we could swing clear of the "Likelike."

Q. When you picked up your anchor Wednesday morning, what course did the "Mokolii" and "Makee" take?

A. When you pick up the anchor you don't have to go no course, you have to use your judgment.

Q. What judgment did you use and where did you go.

(Testimony of Tom Mason.)

A. The "Mokolii" steamed out passing the "Helene's" bow.

Q. Passed the "Likelike"?

A. The "Likelike" bow and the "Helene" bow was a good distance away from the bow of the two ships. Then we came in kind of figure to get close to the "Celtic Chief."

Q. You came in between the "Helene" and the "Intrepid"? [1326—482]

A. Yes, and we turn right around bow out and when I say, "Captain, this is better place for the anchor," and he said, "When you see it is good ground drop it," so we dropped the anchor.

Q. He left it to you to determine what was a good place to drop the anchor?

A. Yes, because I was looking. He didn't want me to drop it in a bad spot; he want me to drop it in a good one.

Q. Where was Captain Weisbarth?

A. He was on the bridge with Captain Miller.

Q. Did he have anything to do with dropping the anchor that morning?

A. He was by the dropping.

Q. How much time passed between the time you began hauling up the Miller anchor on Wednesday morning until you got it dropped again? About how much time elapsed?

Q. I say it was about, might be an hour or hour and a quarter.

Q. It might be an hour and a quarter? You don't think it might be longer?

A. It's only a short distance to heave up and drop the anchor.

(Testimony of Tom Mason.)

Q. About what time in the morning do you think you got it dropped the second time?

A. Well, about quarter past seven or seven o'clock.

Q. You say you began about quarter to six, began to pick up the anchor about quarter to six in the morning? A. Yes.

Q. You didn't at any time hear any conversation between Captain Miller and Captain Henry of the "Celtic Chief" with regard to the position of the anchor?

A. Never conversation, see Captain Miller talk, get order from the Captain of the "Celtic Chief"; that's more than I know.

Q. I'm not asking about orders, but you didn't hear any conversation between the captain of the "Celtic Chief" and [1327—483] Captain Miller respecting the position of the anchor? A. No.

Q. Neither Tuesday night or Wednesday morning?

A. No.

Q. Or any conversation between Captain Miller and Pilot Macaulay?

A. They might have a conversation amongst themselves but it's nothing to do with me.

Q. You were not there? A. I wasn't; no.

Q. You didn't hear it? A. I didn't hear it.

Q. Did the "Makee" go near the "Celtic Chief" on Wednesday morning?

A. No, sir, when we dropped the anchor and got the cable on board she went back and put her anchor out.

Q. Do you know anything of signal arrangements between the "Arcona" and the "Celtic Chief"?

(Testimony of Tom Mason.)

A. Didn't have no time to look at that signal.

Q. You didn't know what the arrangements were?

A. Didn't have no time to look at that signal.

Q. In so far as you heard, as you stated on direct examination, that one light was for what?

A. I heard the officer say, "When I fire once, it's to get ready. When I fire twice to go ahead, and when I fire three times is to pull full speed."

Q. Full speed? A. Full speed.

Q. Do you know anything of any signal arrangements between the "Celtic Chief" and the Inter-Island steamers?

A. Don't have any time to look at that.

Q. You don't know anything about raising a lantern in the rigging of the "Celtic Chief"? Nothing at all?

A. I seen red light in the after-rigging. I seen the other one going up when it was too late.

Q. You saw the other one going up when it was too late?

A. Yes, the ship was out of the reef then. The signal was fired when it was too late. [1328—484]

Q. Did that second red light go up before or after the signal was fired?

A. The first light was hanging there by the time the next light went up. When they went up that's the time they fired the three sky-rockets, that's the time they went up.

Q. That's the time the second red light went up?

A. The ship was off the reef.

Q. Did it go off just about the same time?

(Testimony of Tom Mason.)

A. Might be before. I see the red light goes up and the three balls goes up.

Q. Was there any space of time between them?

A. Might be one second or two seconds.

Q. Not as much as a minute?

A. Might be two minutes, might be one minute.

Q. Might it have been ten minutes?

A. I don't—

Q. It might have been ten minutes?

A. It might be.

Q. Or fifteen?

A. It might be; might be one minute or might be three minutes. Right after the red light.

Q. And it might be ten minutes, you say?

A. Might be one minute or a minute and a half.

Q. Not more than that?

A. I couldn't say yes or no.

Q. You really didn't pay any attention to it?

A. Really didn't pay no attention to it.

Q. Was that the time the blocks dropped?

A. When the blocks dropped I was busy looking after these things.

Q. You don't know whether that second red light went up before or after they dropped?

A. I didn't have no time.

Q. You didn't see that second red light go up?

A. I seen it placed up. That's the side of it. Went [1329—485] up when I was busy.

Q. You saw it going up in the rigging?

A. Well, I seen it going up; they hoist it up. They fired the three balls and the red light went up.

Q. Your blocks dropped before that red light went

(Testimony of Tom Mason.)

up? A. The ship was off.

Q. Answer the question. Did your blocks drop before that red light went up? A. Yes.

Q. About how long before did your blocks drop?

A. I couldn't tell you. Might be fifteen or twenty minutes.

Q. Might have been that much? A. Yes.

Q. And when your blocks dropped the boat went right off? A. The boat went right off.

Q. When your blocks dropped that was the first real intimation or knowledge that you had that the "Celtic Chief" was moving off, is it? A. Yes.

Q. That's the first time you knew of it?

A. Yes.

Q. Did you feel any bumps on the "Celtic Chief"?

A. Plenty of it, but I never feel her moving.

Q. Every little while she bumped that way?

A. Once in a while she come down heavy.

Q. When she came down heavy was there anything in it to indicate that she was moving?

A. I couldn't tell you because we taking in the slack slowly every time, every slack we got hold of it. That other time she bumping and lightering that started her and of course when a little taut came off, pull her up. That's the time she made a bounce.

Q. When she made that bounce where was Pilot Macaulay? A. They was down in the cabin.

Q. Where was Captain Henry?

A. They were down in the cabin. [1330—486]

Q. At that time did they come out?

A. They did when they saw the ship had moved and sing out the ship is moving.

(Testimony of Tom Mason.)

Q. Previous to that time you didn't hear anybody say anything about the ship moving? A. No.

Q. You didn't have any intimation of any kind that she moved before then?

A. She must be moving but I couldn't prove that she was sliding all the time. That's the only time.

Recess.

Q. Mr. Mason, the "Makee" had an anchor of her own, did she? A. Yes, sir.

Q. And used that anchor to anchor herself after the big anchor was dropped on Wednesday morning?

A. Eh?

Q. She used her anchor to anchor herself out on Wednesday morning? A. Yes, sir.

Q. What anchor did she use on Tuesday night?

A. Tuesday night?

Q. Yes. Used her own anchor on Tuesday night?

A. No, the cable anchor.

Q. The big anchor? A. The big anchor.

Q. Why didn't she use her own anchor?

A. She had the other one heaved over the side.

Q. Why was that big anchor hove over the side that night? A. To get ready.

Q. To get ready for what?

A. To get ready to drop it in the morning.

Q. But you dropped it that night.

A. We dropped it, hold on to it.

Q. For the "Makee" to hold on to? A. Yes.

Q. Rather than dropping the "Makee's" own anchor? [1331—487]

A. We got that one.

Q. You knew that you had to pick that up in the morning? A. Yes.

(Testimony of Tom Mason.)

Q. You expected that you'd have to pick up the big anchor next morning?

A. Pick it up and shift it to this place *place*.

Q. How was that big anchor taken out on the "Makee"? On deck?

A. It was on deck. Hove it out on the side and take it forward with a wire cable.

Q. There is no reason, so far as you know why the big anchor couldn't remain on board the "Makee" all night?

A. Just as well, and just as well to use it when we dropped it over.

Q. Isn't it a fact that that anchor was dropped that night at that place by the order of Captain Miller? A. Which anchor?

Q. The big anchor.

A. It was dropped by order of Captain Miller to use the big anchor to hold the "Makee" on.

Q. What was it, then, you told me about your having said that's not a good place for that anchor?

A. I said "That's not a good place"; in the meantime he said we might just as well hold on it till morning.

Q. Didn't you expect to use that anchor in the morning?

A. I wanted to use the "Makee's" anchor.

Q. What's that?

A. I wanted to use the "Makee's" anchor. He says it's not necessary to use the "Makee's" anchor when we got this anchor all ready hanging on the bow.

Q. Why was that big anchor dropped overboard

(Testimony of Tom Mason.)

rather than the small anchor, the smaller anchor of the "Makee"?

A. Hang it over the bow so we could get ready.

Q. So you could get ready for the morning's work?

A. Yes. [1332—488—498]

Q. You expected to connect that anchor with the "Celtic Chief"?

A. We didn't expect to connect it from the place where we lay.

Q. Did Captain Miller expect—

Mr. MAGOON.—I object to that. How could this man—

Mr. WARREN.—What was said between you and Captain Miller?

A. I told Captain Miller that is not the right place for the anchor to lay. You want this anchor above the "Helene."

Q. That is, you thought it ought to be laid so you could pull the ship straight off? A. Yes.

Q. What had he said previous to that?

A. He said, "That's the best idea."

Q. He said your idea was good? A. Yes.

Q. What had been said between you and Captain Miller previous to your telling him that that wasn't a good place?

A. He says, "It's not very good pulling sideways."

Q. You said that?

A. He said that. He said, "I think that's good idea. It may be it's not very good place." When I got my instructions I said that is not the right place for the anchor to lay, pulling sideways.

Q. Was that conversation before or after the big

(Testimony of Tom Mason.)

anchor was dropped?

A. The anchor was at the bow then.

Q. And you hadn't yet dropped it?

A. We had already dropped it to hold on to it. Then we done our talking.

Q. You told him, Captain Miller, that you thought that wasn't a good place right after he had given the order to drop the anchor and it had been dropped?

Mr. MAGOON.—I object, your Honor. I think the subject has been covered and it's immaterial.

The COURT.—I think that it has been covered, Mr. Warren. [1333—499]

Mr. WARREN.—I want to get at what passed in connection with the dropping of that anchor to find out whether it was dropped.

The COURT.—You will answer this question then.

A. We hoisted the anchor to the side of the "Makee."

Q. What's that?

A. We hoisted the anchor from the deck of the "Makee" on the side.

Q. Yes.

A. And take it forward where the anchor, the other anchor-chain was. We take it in the chock on the ship, over the rail where the chock is, lash the wire in there to the winch and heave the big anchor forward so that we can let go the place where we wanted the anchor that night.

Mr. WEAVER.—I move to strike out the answer as irrelevant and not responsive.

The COURT.—We'll let it stand.

Mr. WARREN.—That was the place, was it, Mr. Mason?

(Testimony of Tom Mason.)

A. That's the place when we dropped the anchor. We laid there that night.

Q. Where you dropped it that was the place that Captain Miller wanted it dropped, was it?

A. He wanted it dropped that night.

Q. For what purpose, if you know.

Mr. MAGOON.—I object to the question, it is entirely immaterial, your Honor, and it has been covered half a dozen times.

The COURT.—Objection overruled.

A. To hold the "Makee" that night. Then he changed his mind, he says to me, he says, "Tom, I think we could run a cable from here to there."

Q. Then he changed his mind on your suggestion that the other place was better?

A. I hadn't given my opinion. He said he had a good mind to run that cable from where the "Makee" was lying on that [1334—500] anchor to the "Celtic Chief." I told him, "No, sir." You want to get your anchor right at the stern to her, but this is sideways; she's pulling that ship sideways. She won't do her no good at all."

Q. So far as you know, it was his intention of using the anchor at that time?

A. That was his intention till I told him better to have your anchor right at the stern of her.

Q. You've spoken of a current that was created in the water by the propellers of the steamers that were pulling. There was a current from the propellers of the Inter-Island steamers, was there?

A. Well, there is current from the Inter-Island steamers that was going to the "Celtic Chief" most of the time.

(Testimony of Tom Mason.)

Q. You think that had a tendency to wash the "Celtic Chief" further on shore? A. Eh?

Q. You think that tended to wash the "Celtic Chief" further on shore? A. Oh, no.

Q. You don't think so?

A. It's the water lifting her all the time.

Q. Lifting her?

A. Lifting her, gradually moving in all the time. It's the Inter-Island steamers' propeller and the wave must have done a little lifting in to it, but there's not much, because the steamer's further out of the way, good ways out, and that didn't affect that ship with the full load.

Q. Well, as she was, do you think it affect her?

A. I don't think she affected any by the waves of the propeller, with the current of the propeller washing in.

Q. Now, when the "Arcona" came off; when the "Celtic Chief" came off, did you know what lines of the pulling steamers were out first?

A. I don't know which steamer was let go first. I heard they was hurry up to get the towline at the "Mikahala" off. [1335—501]

Q. Did *you anything* said about the line of any other vessel?

A. I says, "Let go of everything," and I was busy with my own work and I didn't pay no attention to the others.

Q. You didn't see any of the others? A. First.

Q. What is that?

A. I say I didn't see the first was let go.

Q. Did the steamer lines go overboard before your tackle did?

(Testimony of Tom Mason.)

A. I couldn't say that my cable went overboard first or the line of the other steamer.

Q. You weren't paying any attention to it?

A. I didn't pay no attention. I just watching my cable go overboard without getting tangled up.

Q. As far as you know, the "Mikahala" may have been still attached when your cable went overboard?

Mr. MAGOON.—I object to that. What's the good of knowing that?

A. I didn't say it was not. It was let go or not or the two of them.

Q. One of the two?

A. Yes, let go from the end.

Q. You don't know when it was cut?

Mr. MAGOON.—I object to it because it has been answered.

The COURT.—Mr. Warren may be permitted to ask the question.

Q. You don't know when the "Mikahala" line was cut or let go?

A. Well, I heard them sing out let go the "Mikahala" line then I'm busy tending to my cable.

Q. And you don't know whether it was cut or let go when they hollered after that?

A. I don't know whether they let go or cut.

Q. It took you fifteen minutes from the time the vessel began to move off until you got your line clear?

A. Might be little more.

Q. When that time was up then you observed the lines of the other vessels?

A. The "Mikahala" line? [1336—502]

Q. Yes.

(Testimony of Tom Mason.)

A. The time I was busy overhauling my things they let go the "Mikahala" line, I hear someone say, I couldn't see whether it was Haglund, but someone singing out, but I hear the voice, "Hurry up."

Q. You heard that but you saw nothing?

A. Didn't saw that. They was getting the "Mikahala" line loose. The "Arcona" would pull the "Mikahala" off.

Q. You didn't see them?

Mr. MAGOON.—I object.

A. I didn't see when they let go the line.

Q. Now, when the "Celtic Chief" moved off you say she came almost to a stop when she got out near the "Arcona"?

Mr. MAGOON.—I think that counsel has asked that half a dozen times before.

A. The time she jumped off and the time that we seen the "Arcona" was pretty close. She was moving gradually; she didn't stop all at once till the "Arcona" go away, but she was drifting along close to the "Arcona." I didn't say when she jumped out of the reef and she went to a stop.

Q. Do you know how many lines the "Arcona" had attached to the "Celtic Chief"?

A. I seen two of the wire cable, wire on each side.

Q. Do you know where the "Arcona" line was attached on the starboard side of the "Celtic Chief"?

A. One passing to the side of the "Celtic Chief" on the starboard and one on the port.

Q. Where on the starboard of the "Celtic Chief"?

A. On the starboard?

Q. Yes.

(Testimony of Tom Mason.)

A. I never went and looked at that. Must have been in the after chock or the side chock.

Q. You don't know which.

A. I don't know which, but the starboard line, the starboard cable was across my [1337—503] cable, my blocks, and passing to the mast.

Q. Which mast? A. The main mast.

Q. And it came through the chock right to the main mast? A. Yes.

Q. Then ran along past the main mast along the side of the "Celtic Chief" across the "Mikahala" line, did it not?

A. The "Mikahala" line was in the starboard chock.

Q. Starboard chock? A. Starboard chock.

Q. Quarter? A. Quarter.

Q. And the "Arcona" line crossed over those?

A. I couldn't tell you exactly where the "Arcona" had her towing line. Must be on the side chock. I didn't examine them good. I seen the cable when they heave it the first pulling up and break it. Came through one of the side chock and fastened to the mast.

Q. Main mast? A. Main mast.

Q. And the second time was fastened on the same way on the Ewa side?

A. Well, the second one came in that way the same place I think and heaved over my cable, was hanging right on top of it. Sometime we had to step over that wire.

Q. That's coming from the— A. On the deck.

Q. Coming on deck from the middle chock to the

(Testimony of Tom Mason.)

main mast, you had to step over it there?

A. Pretty well close up to the poop.

Q. The "Arcona" line on the starboard side crossed the "Mikahala" lines on top?

A. I never looked outside the bulwark to see it.

Q. Do you know whether or not the "Arcona" line on the starboard was fastened in any way to the quarter chock with the "Mikahala" line?

A. The "Mikahala" line, I think, was fastened on to the chock not to the mast.

Q. Fastened on what chock?

A. Come through the chock and fastened on to the bitt. [1338—504]

Q. The "Mikahala" line?

A. The "Mikahala" line. But I couldn't tell. I never examined them lines where it was fastened to.

Q. You didn't examine the "Arcona" line on the other side?

A. I didn't examine the "Arcona" line; that was on the other side.

Q. When the "Celtic Chief" was off, floating, and the "Arcona" starting to tow her out, how many lines were there then?

A. I couldn't tell you. Must be two lines, the two lines she had on.

Q. Do you know?

A. I don't know. They must let go one or pull with both of them.

Q. You think they pulled with the both of them?

A. I think they pulled with the both of them. Of course, I never paid no attention to go look over the stern again after she pulled. I went down to my

(Testimony of Tom Mason.)

work to get my pulleys, everything into a place to get ready in the morning to take out to the "James Makee."

Q. Now, the "Arcona" was lying broadside, you say, when she started up. What direction did she move first?

A. She moved that way. Moved and took up her anchor. She shot out to sea then and headed for the bell-buoy, then the "Celtic Chief" was right after her.

Q. The "Celtic Chief" swung around?

A. Didn't swing much. When the "Arcona" shot off that way she followed the "Arcona" stern first.

Q. Did she go directly stern first?

A. Well, the "Celtic Chief" was.

Q. She didn't go a little bit broadside or sideways?

A. Well, I couldn't say that. I wasn't standing like a fool. She must go a little sideways. I don't know. She had a swaying motion and the swaying motion kept the vessel straight but not too straight.
[1339—505]

Q. Then why did you say she went stern first?

A. That's the way she got pulled away by the "Arcona." She didn't go ahead.

Q. Isn't it a fact that the "Arcona" line on the starboard side of the "Celtic Chief" was fastened amidships and that she pulled the "Celtic Chief" forward through the water?

A. I couldn't say that she were. If the line was on the midship chock and she pulled with when the other line was fastened on the other side, it would go much sideways.

(Testimony of Tom Mason.)

Q. Was the other line fastened on the other side?

A. Must be.

Q. Do you know?

A. I never was standing behind there and look at the thing going. All I know when the "Celtic Chief" out of the reef and the "Arcona" start away pull that's the time that I know that the "Arcona" got charge of the "Celtic Chief" there. I never bother no more about looking till the big boat come alongside and ask for assistance. I never answered the big boat.

Q. Were you on the poop of the "Celtic Chief" when the "Arcona" was towing her out?

A. No, sir; I was down on the main deck clearing my pulleys away.

Q. As far as you know the "Arcona" may have been towing the "Celtic Chief" by a line fastened midships on the starboard chock of the "Celtic Chief"?

Mr. MAGOON.—I object to the question.

The COURT.—Answer the question.

A. The "Arcona" was towing; that is all I know. When she got hold of it and towed she must move a little sideways. I couldn't tell you if she's going sideways or going broadside.

Q. You don't know?

A. I don't know that. I know that the "Arcona" got hold of the "Celtic Chief" and tow her out to sea and headed for the bell-buoy.

Q. That's all you know. That's what I want to find out. [1340—506] You've also testified with regard to the winch on board the "Celtic Chief" that

(Testimony of Tom Mason.)

the captain of the "Celtic Chief" said, "Here, you can't use this winch, we want it for cargo." Did any of the Miller Salvage men use the winch at all after that?

A. They used the winch a little after that then he came and stopped us again then we took it to the capstan again and held it there till the ship jumped off.

Q. You didn't change back to the winch again?

A. No, sir.

Q. Now, when you lashed your block on to the end of the Miller anchor line, you didn't take that off again at any time?

A. To the end of the Miller line.

Q. You lashed your tackle, your big block on the first of the falls, did you not? Tackles?

A. Blocks was attached on to the main hawser.

Q. To the main hawser? A. Main hawser.

Q. You didn't take that block off again at all during operations, did you?

A. No, we just only fleeted the small tackles to keep away heaving on to it.

Q. Now, the other big block on that first tackle, when it was made fast to the lashing, was that changed in any way? Did you take it off?

A. Take nothing off till we got the ship off, only that small tackle.

Q. But never the first one?

A. Never the first one.

Q. How far was it from the foremast back to where your block was fastened to the Miller line?

A. I think it was about two hundred feet.

(Testimony of Tom Mason.)

Q. How much? A. Two hundred feet.

Q. And where was the block on the deck of the "Celtic Chief," what part of the deck, when you first got the Miller line taut on Wednesday afternoon?

A. The end of the line was hanging over to the poop. [1341—507]

Q. Hanging over the poop?

A. Hanging over the poop.

Q. Isn't that about where it was when you first pulled it on?

A. When we heaved the slack in we came a little farther ahead, about twenty-five feet.

Q. And then it was taut then, was it?

A. Was taut then, yes, and we got the other tackles on then gradually take it in. We took in about twenty or thirty feet.

Q. Twenty or thirty feet of cable? A. Yes.

Q. That brought the main block, the big block on the cable got up to about where on the deck?

A. Pretty near to the main hatch.

Q. How close, how far apart were those two blocks on the first tackle when the block moved on the deck and the ship came off?

A. Just a little aft of the main hatch.

Q. About how many feet between the two blocks then?

A. Oh, about fifty or sixty feet more.

Q. Fifty or sixty feet?

A. That's between the two blocks on the main block.

Q. You'd have to run that block about fifty or sixty feet more in order to bring the two blocks together?

(Testimony of Tom Mason.)

A. Yes.

Q. Now, you said that when the ship came off everybody said that it would be better, or all said it would be better if the "Celtic Chief" had run into the "Arcona." When you say all said who do you mean said those things? Any particular person?

A. Well, there's lot of native and lot of people there, and the sailor themselves who said be good we all most run into the "Arcona," and some of them said be good that we run into the "Arcona," would be better.

Q. You don't know who said that?

A. I didn't pay no attention. My idea was if we run into [1342—508] the "Arcona" then that would show she was no good.

Q. Did you hear Captain Miller say anything about it? A. No.

Q. Or Pilot Macaulay? A. No.

Q. Or Captain Henry?

A. No; I have no conversation with them when I was doing my work.

Q. You said somebody sung out for the "Arcona" to get out, to get out of the way. Do you know who that was?

A. That's the own officer. When he fired that sign rockets away in a hurry I heard *her* German voice sing out, "Get out of the way, get out of the way."

Q. Did you hear him say that, the officer of the "Arcona"?

A. Well, he had a white suit on like the "Arcona" officer.

Q. He said that in English, did he?

(Testimony of Tom Mason.)

A. He said that broken English. Not German.

Q. Not German, did you say?

A. He said, "Get out of the way, get out of the way."

Q. Do you know when he came on board?

A. In the evening.

Q. In the evening?

A. Yes, I don't know what time in the evening it was, but I see two or three of them running around on the poop deck there with Haglund and the captain of the ship and the pilot.

Q. How long do you think he had been on board before the ship came off?

A. He had been there—I don't know. He had been there, I see the officer there running around on the poop around dark time in the evening before the ship come off. Of course, I don't know if he goes aboard the "Arcona" and come back again. For awhile I see him on the poop walking around.

Q. Do you know where the captain of the "Arcona" was? A. No.

Q. Going back, referring to your work on the "Mirowira," you said you were there for two days and you left about four hours [1343—509] before she came off the reef?

A. Yes, I was after some particular thing they want on board and they sent me to the Catton Neil factory to get it.

Q. That's how you came to leave the ship?

A. And then I came ashore in a boat.

Q. What are you doing now, Mr. Mason?

A. I'm working with Captain Miller on board the

(Testimony of Tom Mason.)

“James Makee” as deck-hand.

Q. How long have you been working aboard?
Ever since the “Celtic Chief” accident?

A. Not very *stead* with Captain Miller. Once in awhile we would get laid off; if he got a job for me he send for me to come back and work for him.

Q. What are you doing right now?

A. Still running with the “Makee” towing barges.

Q. For Captain Miller? A. Captain Miller.

Q. And previously to that you worked for the Inter-Island?

A. I worked for the Inter-Island splicing their riggies and rigging boats up and when they got nothing to do for me Haglund laid me off.

Q. You were a deck-hand, weren't you?

A. I was in the rigging loft for a couple of months.

Q. And what did you do for the last year or so that you worked for the Inter-Island?

A. I was a year and six months or two years that I worked for the Inter-Island.

Q. What were you doing?

A. I was making net slings and splicing riggings.

Q. You were night watchman?

A. I was night watchman for Wilder Steamship Co.

Q. Were you not night watchman for the Inter-Island? A. I worked with the Inter-Island.

Q. Weren't you night watchman for the Inter-Island? A. Yes.

Q. That's what you were doing when you left the Inter-Island? A. Yes. [1344—510]

(Testimony of Tom Mason.)

Q. How long had you been night watchman before you left?

A. Altogether, from the Wilder Co., seven years.

Q. Night watchman all the time? A. Yes.

Q. How did you come to leave the Inter-Island?

A. They simply didn't want me there any more.

Q. They let you out?

Mr. WARREN.—That's all.

Redirect Examination.

Mr. WEAVER.—Q. When you, in your cross-examination, referred to the hold that the main block took upon the tackle fixed upon the Miller Salvage anchor, those main blocks—do you understand what I am referring to? A. The main block.

Q. You had two main blocks on the "Celtic Chief." One main block was attached to the cable which in turn was attached to the steel hawser of the anchor of the Miller Salvage Co.?

A. I don't know what you mean about blocks.

Q. You had two treble blocks on the "Celtic Chief," two main blocks? A. Two main blocks.

Q. And you had those on the deck of the "Celtic Chief"? A. Yes.

Q. And one of the blocks was aft and attached—

A. Attached to the hawser, the hawser attached to the wire, cable, shackled on.

Q. Now, in heaving in on those blocks at any time did you or did you not have to fleet that block, that main block?

A. I fleet it by small blocks. I never fleet the main block.

(Testimony of Tom Mason.)

Q. What was the greatest distance between those two main blocks when you began heaving, if you can tell? Greatest distance between the two treble blocks.

A. Good, big distance.

Q. Big distance?

A. Big distance. [1345—511]

Q. You said it was two hundred feet in your cross-examination. A. Yes.

Q. That was the greatest distance it was at any time?

A. That was the distance when we took it in and we took in some; that made it a little shorter.

Q. At the time the tackle dropped on the deck, what was the distance between those blocks, if you could tell?

A. Well, it's about—I couldn't say exactly. Might be one hundred and fifty feet.

Q. What is your idea of the amount?

A. Might be sixty feet. Between the two, I think.

Q. There's a hundred feet between the two of them. What is your estimate of the distance you pulled those blocks together? A. Eh?

Q. What is your estimate of the distance you pulled those blocks together, you pulled the aft block up to the front block? Do I understand your testimony to be that the difference was between that two hundred feet and this fifty and sixty feet you pulled those blocks?

A. I pulled very hard up to her.

Q. Then you pulled on that cable how much between the time you got the line on till the ship came

(Testimony of Tom Mason.)

off? A. From the poop?

Q. Yes.

A. From the time I hooked on that first tackle and we pulled them in must have been about ten o'clock and take in the slack; then we attached on to the other tackle.

Q. How much had that after one moved from the position it was in when you first pulled in this ten feet that you have spoken of and the position it was when the blocks dropped?

Q. When we started to pull that main tackle taut and we got the other one on, we pulled it taut and the blocks commenced to rising up and the tauter we heaved the cable, of course, tightened her up and tightened up and she go pretty [1346—512] high on the deck.

Q. Where was that after block then with regard to the vessel, "Celtic Chief," the break of the poop?

A. Break of the poop?

Q. How far was that from the break of the poop?

A. The main block was about as far from here to the stand here and a little close from the wall. From the break of the poop to where the main hatch was where they was working cargo just between the main mast and my back and I was good way from the poop.

Mr. MAGOON.—Can't you tell us how far that after block travelled towards the forward block? Have you got the question? I want to find out how far that after block travelled.

A. It's pretty far from the other blocks.

Q. How far did it go when you began your strain? How far did that after block travel?

(Testimony of Tom Mason.)

A. About one hundred and fifty or one hundred and sixty feet.

Q. One hundred and fifty or one hundred and sixty feet? A. Yes, something like that.

Mr. MAGOON.—That's all, thank you, Mr. Mason.

Recross-examination by Mr. WARREN.

Mr. WARREN.—Q. Do you think that block travelled one hundred and fifty or one hundred and sixty feet? That would leave only forty feet between the blocks, wouldn't it?

A. What?

Q. That would leave forty or fifty feet between the blocks?

A. I didn't say it would leave forty feet from the block. I says travelling that two hundred feet.

Q. Travelled that two hundred feet?

A. I said that two hundred and we took off twenty-five or thirty-five feet first haul. Why, there's pretty long distance from the after block to the other block.
[1347—513]

Q. Then you took in more slack?

A. Well, we kept a gradual slowly taking in all the time till she jumped off.

Q. Then when she jumped, how far apart were those two blocks?

A. I didn't pay no attention to go and measure.

Q. About how far?

A. Must be sixty or seventy feet farther. Of course, when the blocks dropped that's all I know.

Q. Would you say it dropped about the main hatch?

(Testimony of Tom Mason.)

A. It dropped pretty close to the after hatch.

Q. The after hatch?

A. Aft of the main hatch, just pretty close the corner of the main hatch were they was breaking out the cargo.

Mr. WARREN.—That's all. [1348—514]

[Testimony of Richard Clarke, for Libelant.]

Direct examination of RICHARD CLARKE, a witness called on behalf of Miller Salvage Co., Ltd., and sworn.

Mr. MAGOON.—Q. What is your name?

A. My name is Richard K. Clarke.

Q. How old are you?

A. I'm going to thirty-three now.

Q. Where do you live?

A. I live up Kalihi.

Q. Have you ever had any experience in salving vessels?

A. Well, I had experience when I went to work under Medcalf.

Q. Where was that?

A. On the other side of the Island.

Q. What ship? A. "Manchuria."

Q. How long were you working there?

A. I was down there with them about ten days.

Q. In what capacity was you working there?

A. Helping on rigging.

Q. Did you observe what the operations were with reference to salving that ship? Did you look to see what was done in the salving of the "Manchuria"?

A. Whatever he gave me as laborer, I obey his

(Testimony of Richard Clarke.)

order; laying out the anchor for him.

Q. State whether or not you had an anchor in the salving of that ship. A. Anchor?

Q. Used an anchor?

A. We used that one that Miller has now.

Q. Used the one that Miller has now? [1349—515]

A. Yes, we used that one for the leading anchor; first anchor.

Q. That means chief anchor?

A. Yes, the chief anchor.

Q. Were there ships pulling on that "Manchuria"?

A. There was no ship pulling; the "Restorer" was hanging on.

Q. When she came off, were there any ships pulling? A. No, sir.

Q. How was she pulled off?

A. She was pulled off by the anchor.

Mr. WARREN.—I object to that, if the Court please, on the ground it doesn't appear the witness is qualified to answer that.

Mr. OLSON.—Same objection.

The COURT.—I'll sustain the objection as to the form of the question.

Mr. MAGOON.—Q. What did you see as to the means of pulling? When the "Manchuria" was pulled off the reef what was she pulling on?

A. She was heaving on that anchor.

Q. Was she heaving on anything else?

A. Just the anchor alone.

Q. Was anything else heaving on her when she came off? A. No, sir.

Q. Prior to the time that she came off the reef, had

(Testimony of Richard Clarke.)

anything been pulling on the "Manchuria" before the anchor was put down?

A. Well, there was some Inter-Island boat was down there before I got down there and I didn't know what they was doing before I was down there until Medcalf came on Pacific Steamship and picked me up. He says, "I take this young man with sixteen others." We laid these anchors. [1350—516] Of course, the "Restorer" was laying there.

Q. Now, after you got out there did any boats, ships pull on the "Manchuria"?

A. There was none of them pulling; none of them pulling.

Q. And during all the time that you were there did any of them pull? A. No.

Q. Now, you had the Miller Salvage anchor?

A. Well, I didn't know it was Miller Salvage.

Q. You called it the same anchor that Miller used?

A. Same anchor.

Q. Do you know how many tons that anchor was or is?

A. Well, she is between six and seven tons anchor.

Q. You say that was the chief anchor, what you called the leading anchor; did you have any other anchors? A. Where, at the "Manchuria"?

Q. Manchuria." A. Yes.

Q. How many?

A. We had three from the Navy.

Q. What size were they?

A. They are five ton and a half anchor.

Q. Three of them? A. Three of them.

Q. Now, did you pull on them at all?

(Testimony of Richard Clarke.)

A. We string them all out.

Q. When the "Manchuria" came off did you pull on those anchors? Describe the leading anchor.

A. The leading anchor branched to those other anchors. The leading anchor like this; cable connection with the other. The Navy anchor we lay them fifty or sixty fathoms away all kind direction. When we come to heave to them all come one side.

Q. Pulling on all the same time?

A. All the same time. [1351—517]

Q. What kind of cable did you use from the leading anchor—manilla cable or steel cable?

A. I can't tell you the the manilla, but I heard it was a steel.

Mr. OLSON.—Move to strike then, if the Court please, on the ground it is hearsay.

The COURT.—Granted.

Mr. MAGOON.—Q. Did you see the cable that went from the "Manchuria" to the leading anchor or any part of it?

A. There was connection to every one of them.

Q. Did you see those connections? A. Yes.

Q. What kind of rope was it? A. It's a wire.

Q. Wire rope. How many wire ropes, one or more? A. Well, they had more than one.

Q. How did you connect the ropes to the anchors?

A. We connect those wires with what we call clamps, these heavy clamps.

Q. How many ropes did you have? A. Wire?

Q. Any kind of rope?

A. They branched this way. They had the main cable that branched out from her to that door and

(Testimony of Richard Clarke.)

have another one to the buoy on it.

Q. This main cable, how large a cable was that?

A. Well, it is pretty good size cable.

Q. Was it wire or rope? A. Wire.

Q. Can you tell us how big it was in diameter?

How many inches around?

A. I have no idea about diameter.

Q. Not diameter but circumference? [1352—518]

A. I have no attention sizing up that wire because I was in a hurry.

Q. Now, did you have any other salvage experience? A. Worked on the "Logan."

Q. Where was the "Logan" stranded?

A. Right in the harbor.

Q. Did you get her off?

A. Well, I working on this cargo. I discharged this cargo.

Q. Did she come off while you were working there?

A. We had an anchor from her and put it out on the stern.

Q. Were you there when the "Logan" came off?

A. Yes.

Q. Did you see the operation of getting her off?

A. At first we tried the "Kukui" and one of these man-of-wars; I don't know what's her name.

Q. "Arcona"? A. "Arcona."

Q. The German cruiser? A. "Arcona."

Q. Are you sure it was the "Arcona"?

A. It was man-of-war there pulling. I heard they say man-of-war.

Q. You heard it was a German man-of-war?

A. I heard it was German man-of-war.

(Testimony of Richard Clarke.)

Q. But you don't know whether it was the "Arcona"? A. I don't know "Arcona."

Q. You say the "Kukui" and the German man-of-war, did they pull it off? A. No.

Mr. WARREN.—Object to the question.

Mr. OLSON.—On the ground the witness does not know what means was used to take her off. Object to it on the ground that it doesn't appear that the witness is qualified to answer.

Mr. MAGOON.—[1353—519] Q. What forces were in operation at the time she came off, Mr. Clarke?

A. Well, they took the anchor out and they heaved on it when the high tide came up.

Q. At the time that she came off in that way were the German man-of-war and the "Kukui" pulling on her? A. They was away from her.

Q. They were not pulling then? A. No.

Q. Was there any other forces at work to get her off besides those anchors—anchor?

A. I had no idea about that.

Q. Did you see anything else besides the anchor?

A. The anchor I saw taking them out because they sung out to me to give them a help so I sent four men there to help the sailors.

Q. And she was pulled off?

A. She was pulled off.

Q. Now, have you ever had any other salvage experience?

A. Just this last one, the "Celtic Chief."

Q. What position did you hold in the salvage of the "Celtic Chief"?

(Testimony of Richard Clarke.)

A. Mr. Miller called me up to pick up some labor. He said "Go out and discharge her cargo." When we got out that morning we worked on its freight.

Q. How many men did you take out with you, about? A. About sixty or seventy men.

Q. Can you tell us how much, the time of those men from the time that you began working until you stopped work? Have you got it? A. Yes.

Q. Tell us, please, how much the wages came to for the men that you employed. Give the whole thing.

A. I never put all down. I can easily figure up. [1354—520]

Q. While Mr. Olson is looking at it, from the time that you were working out there were you working all the time for the Miller Salvage Company?

A. Yes.

Q. Employed by Mr. Miller?

A. Employed by Mr. Miller.

Q. You have a book here. State when you made the entries in this book. Did you make it every day or every three or four days or how?

A. Every day.

Q. Now, when is the first entry that you made there, what day? A. On Monday.

Q. What day of the month?

A. December the sixth.

Q. You have entered there, have you not, the men's names with the time of each man? A. Yes.

Q. And the wages; the amount of his wages?

A. Yes.

Q. Can you tell us, can you figure up, tell us how

(Testimony of Richard Clarke.)

you figured the time up for all the men. I just want to get the total amount.

Mr. OLSON.—Q. Did you pay these men yourself? A. I stayed by the paymaster.

Q. What? A. They had one paymaster.

Q. Who had a paymaster? A. Miller.

Q. Miller had a paymaster where?

A. We paid those men down the Matson Dock.

Q. You saw each one of these men paid?

A. I was checking over.

Q. So that you know that the amounts were paid them? A. Yes.

Q. And you have a memorandum there in your book of the men, the time that each man spent, that he was paid for actually?

A. Yes, sir. [1355—521]

Mr. MAGOON.—Q. I'd like for you to give the amount, total of all the men's wages during that time.

(Witness figures.)

A. Total, \$726.80.

Q. Monday how many men worked?

A. Monday?

Q. Yes. How many men altogether and how many hours overtime?

A. Thirty-one men got three-quarters of a day.

Q. How much overtime did they work?

A. As soon as we got the three-quarters of a day—

Mr. STANLEY.—Q. At what rate were those men paid? A. \$2.00 a day.

Mr. MAGOON.—Q. Now the overtime?

A. Twenty-five men got eleven hours overtime.

Mr. OLSON.—Q. Also on Monday?

(Testimony of Richard Clarke.)

A. Monday, yes.

Mr. MAGOON.—Q. What's the rate for overtime?

A. They were getting fifty cents an hour; double time. Nine men eight hours overtime that night.

Q. How much an hour?

A. They got fifty cents an hour.

Q. Now on Tuesday. Are you through with Monday? A. Monday, no.

Q. How much more is there for Monday?

A. Yes, I'm through with Monday.

Q. Tuesday how many men worked?

A. Forty-nine men on Tuesday all day. [1356—522]

Q. At how much a day? A. \$2.00 a day.

Q. Any overtime?

A. Overtime? Yes. Twenty-six men, five hours overtime.

Q. At half a dollar an hour? A. Yes.

Q. On Wednesday?

A. No. I'm not through with this. Twenty-one men got eleven hours overtime.

Q. At half a dollar an hour?

A. Half a dollar an hour.

Q. On Wednesday how many men worked?

A. On Wednesday, twenty men half a day.

Q. At \$2.00 a day?

A. \$2.00 a day, yes; half a day. Twenty-six men full day.

Q. At \$2.00 a day? A. \$2.00 a day.

Mr. OLSON.—Q. That's on Wednesday also?

A. Wednesday also.

(Testimony of Richard Clarke.)

Q. That's in addition to the others?

Mr. MAGOON.—Q. Any overtime?

A. Just a moment. Twenty-six men, ten hours overtime.

Mr. OLSON.—Q. How many? A. Twenty-six.

Mr. MAGOON.—Q. At half a dollar an hour?

A. Yes.

Q. Any overtime on Wednesday? Is that all the overtime on Wednesday? A. Wednesday.

Q. Any work on Thursday? A. Thursday.

Mr. OLSON.—I object on the ground that the proof shows that there were no salvage services on Thursday.

Mr. MAGOON.—Q. Did you do anything in the matter of salvage on Thursday?

A. We had to get our anchor aboard.

Q. And what did you do? What was all the work that you did on Thursday?

A. Taking the anchor aboard [1357—523] the "Makee" and we went out there next to the Quarantine Island.

Q. Putting your anchor ashore?

A. Putting her there.

Q. How many men worked on Thursday?

A. Thursday, twenty men.

Q. All day? A. Yes.

Q. One day? A. One day.

Q. Any overtime? A. No overtime.

Q. At \$2.00 a day? A. \$2.00.

Q. Twenty men at \$2.00 a day. During the time that these men were working, did you feed them or did they feed themselves?

(Testimony of Richard Clarke.)

A. The first night the Salvage Co. bought some stuff for them.

Q. And the second night how did they get their food?

A. The second night the boys got their food from the shore.

Q. Do you know who furnished that?

A. I can't tell.

Q. Now, the first day, on Monday, you discharged cargo did you? A. Yes.

Q. On Tuesday did you discharge any cargo?

A. Tuesday we came ashore in the morning.

Q. All of you, all the men? A. All the men.

Q. Then you came ashore with the cargo?

A. Yes, with the cargo.

Q. Did you discharge any cargo on Tuesday?

A. From the "Makee" we discharged the cargo of, from the "Celtic Chief."

Q. I mean, did you get any cargo from the "Celtic Chief" [1358—524] on Tuesday?

A. I have no idea because I came ashore that night with a bunch of men.

Q. Now, on Tuesday what kind of work did you do?

A. We unloaded the "Makee" and we put some cable on board and the anchor.

Q. This large anchor; this six or seven ton anchor?

A. Yes.

Q. You took it out to the sea beyond the "Celtic Chief" and anchored there that night?

A. Yes. When we got there the "Mokolii" wouldn't take us a line so we slept there that night.

(Testimony of Richard Clarke.)

(Answer read.)

The WITNESS.—Take our line on board.

Q. Did you send a line out that night?

A. We tried to but we can't get a line on board.

Q. Did you send a line? A. In the morning.

Q. What time in the morning?

A. I got no object what time.

Q. Early in the morning?

A. Quite early in the morning.

Q. Did you send it there from the place that you had anchored that night or send it from some other place?

A. When I left I went alongside the "Celtic Chief" and hauled that small anchor and dropped ahead that big anchor. What we call the seven ton anchor, right astern the "Celtic Chief."

Q. But that wasn't the same place you anchored for the night? A. We hauled ahead again.

Q. Were there any other boats attached to the "Celtic Chief" at that time?

A. Well, a couple Inter-Island boats was there.
[1359—525]

Q. Do you know which they were?

A. My memory is the "Helene," and the "Mikahala."

Q. Now, with reference to the "Helene" and the "Mikahala," where did you drop your anchor? On one side or between of the two?

A. Between the two.

Q. Do you know whether a German warship was there or not?

A. Not at that time, when we dropped our anchor.

(Testimony of Richard Clarke.)

Q. Do you know whether the "Intrepid" was there or not? A. Yes, she was.

Q. Was she attached to the "Celtic Chief" at that time? A. She was attached.

Q. Any other boats besides the "Intrepid," the "Mikahala," and the "Helene"?

A. I saw the "Mauna Kea" came over and fastened her line.

Q. I'm asking on Wednesday morning when you attached your line were there any other ships attached at that time; when you put your anchor down that morning were there any other ships?

A. "Mauna Kea" was there that morning, too.

Q. Where was the "Mauna Kea" with reference to the "Mikahala" and the "Helene"? Was she between them or outside.

A. Between of the "Helene."

Q. Between the "Helene" and the "Mikahala"?

A. I think it was the tugboat.

Q. Any other boats besides the "Mauna Kea" that morning that you haven't given that you can remember? A. No I could not remember.

Q. Now, after you attached your anchor what did you do? A. Well, we haul in our hawser.

Q. To where?

A. To the stern of the "Celtic Chief." [1360—526]

Q. You don't know the size of that hawser?

A. No, I haven't got no idea of the hawser.

Q. Who was the person in charge of that work, hauling in the hawser?

A. I was in charge with four laborers hauling in.

Q. Four men? A. Four men.

(Testimony of Richard Clarke.)

Q. Where was Tom Mayson?

A. Well, they came later on. You know, he took the second boat.

Q. About how far astern do you think it was, of the "Celtic Chief," that you dropped the Miller Salvage anchor?

A. Well, it's quite a far distance.

Q. Will you, could you give us some idea how many fathoms or how many feet?

A. I can't tell exactly. Somewhere around about one hundred and twenty-five feet or one hundred and fifty feet.

Q. How long was the "Celtic Chief."

A. I got no idea. I don't know what's her size. Pretty long boat.

Q. Should you say that the distance from the stern of the "Celtic Chief" to the anchor where you dropped the anchor, was greater or less than the distance from the "Celtic Chief" to the bow of the "Celtic Chief." Which was the greater?

A. I think the anchor is greater distance than the boat.

Q. Where was the anchor with reference to the "Helene" and the "Intrepid" and the "Mikahala" and the "Mauna Kea"—was it between those, the stern of those ships and the "Celtic Chief" or was it further out?

Mr. OLSON.—I object to the question on the ground it is leading.

Q. Where was the anchor with reference to where those ships [1361—527] were standing?

A. Well, they run it on that side. We got the anchor this way.

(Testimony of Richard Clarke.)

Q. The "Helene" was on this side, the starboard side of the "Celtic Chief" or the port side?

A. Is that the starboard side on the left side?

Q. Speaking of the right-hand side of the "Celtic Chief"?

Mr. WARREN.—We object to the witness being instructed by counsel. This is the starboard side of the "Celtic Chief"?

The COURT.—Objection overruled.

Mr. MAGOON.—Q. The right-hand side being the starboard side and the left-hand side being the port side of the "Celtic Chief" or any ship? What side of the "Celtic Chief" was the—

A. The "Helene"?

Q. "Helene," yes? A. That's on the port side.

Q. On the left-hand side?

A. The left-hand side.

Q. Now, I was trying to find out where the anchor was with reference to those boats. Where was the anchor? A. Right dead astern.

Q. Dead astern of what?

A. Of the "Celtic Chief."

Q. And how far or how near or how far away or how near to those other ships?

A. I have no idea about it.

Q. What I'm trying to get at is, was it in the same line with those steamers.

Mr. OLSON.—I object to the question on the ground it is leading. [1362—528]

Q. Or was it between those steamers and the "Celtic Chief"?

Mr. OLSON.—I wish to add an additional objec-

(Testimony of Richard Clarke.)

tion on the ground the question has been asked and answered.

The COURT.—Objection overruled.

Mr. MAGOON.—Q. Did you understand my question, Mr. Clarke? A. I didn't understand.

(Question read.)

Q. Or was it outside of those steamers, the Miller Salvage anchor?

A. Inside of the steamers. The steamers were this way.

Q. What's that? A. Inside of the steamers.

Q. The Miller Salvage anchor was between the steamers and the "Celtic Chief"?

A. The steamers were this way and the "Celtic Chief" lying this way and our anchor between.

Q. What I'm trying to get at is where the anchor was with reference to the "Celtic Chief." Was it between those steamers and the "Celtic Chief"?

Mr. OLSON.—Object to that as leading.

Mr. MAGOON.—I withdraw all the questions then and ask it this way. How far was that Miller salvage anchor when it was dropped, from the line of the steamers that were pulling there or attached to the "Celtic Chief"?

A. I've got no idea about it, those steamers and the anchor.

Q. Were those steamers all in the same line or not?

A. No.

Q. Which was ahead and which was behind or which was nearer the "Celtic Chief"?

A. They are all pretty far out from the "Celtic

(Testimony of Richard Clarke.)

Chief." I can't make out. I seen them floating outside. I got no intention to look at them. [1363—529]

Q. Now, how far were those steamers away from the "Celtic Chief"?

A. I got no object about it. I don't know. I seen them floating outside.

Q. Were they farther away or nearer the "Celtic Chief" than the Miller salvage anchor? Which was the farther away—which was the nearer?

A. I think the "Mikahala" is the nearest.

Q. I'm asking you about the Miller Salvage anchor. Were the steamers nearer the "Celtic Chief" than the salvage anchor or were they further away than the Miller salvage anchor from the "Celtic Chief."

Mr. OLSON.—Object to it; asked and answered. The COURT.—Allow the question.

Mr. MAGOON.—Q. Which was nearer, or closer, the "Celtic Chief," the steamers or the Miller salvage anchor when you dropped it?

A. The steamer "Mikahala" is the closest.

Q. She was closer to the stern of the "Celtic Chief," was she? A. Yes, pretty close.

Q. How far beyond the "Mikahala" then, outside the "Mikahala," was it that the Miller salvage anchor was?

A. Can't tell you about that, because when we dropped the anchor I went aboard and I got the buoy floating and I took the boat right away. I got no idea about that, how far.

Q. Well, after you dropped the anchor could you

(Testimony of Richard Clarke.)

see that buoy or not that you dropped? A. Yes.

Q. Could you see it when you were working on the "Celtic Chief," the buoy?

A. We saw it afloat. [1364—530]

Q. You saw it afloat. Now, when you got on the "Celtic Chief" state whether or not these steamers which were lying off there in the neighborhood, the "Mikahala," the "Helene," and the "Mauna Kea" were pulling?

A. They was pulling when I went aboard the "Celtic Chief" till the rope give way, the "Mauna Kea's" rope.

Q. Where was that rope attached that gave away?

A. On the port side.

Q. To what was it attached?

A. Attached to the bitt.

Q. Do you know what caused it to give away?

A. Well, I guess when they gave that jerk.

Q. When who gave the jerk?

A. The "Mauna Kea."

Q. The rope parted?

Mr. WARREN.—I ask that the answer be stricken out as a guess of the witness, your Honor.

Mr. MAGOON.—Did you see what caused the rope to give away?

A. Well, that's what I thought because when the steamer made a full speed forward bound to carry away anything, bound to carry it away.

Q. After she carried away that rope, what did she do?

A. Well, she went right in the dock. She left.

Q. She didn't pull any more. That left the "In-

(Testimony of Richard Clarke.)

trepid," the "Mikahala" and the "Helene" pulling, did it?

A. They was pulling and at the same time they was heaving cargo; the "Helene" taking in cargo aboard.

Q. How did she take in cargo? A. By hoisting.

Q. Where was the "Helene" when she was taking cargo? A. On the port side.

Q. Then she was not pulling?

A. I can't tell you she was pulling or not [1365—531] because I see his line in the water.

Q. Right alongside the "Celtic Chief"?

A. Quite a distance.

Q. How did she get the cargo from the "Celtic Chief" on the "Helene."

A. Take them out on the boats.

Q. Small boats? A. Small boats.

Q. And didn't you observe whether or not she was pulling? A. I got no object about it.

Q. Didn't notice? A. Didn't notice.

Q. Did you notice the "Mikahala"?

A. Those two lines was hanging in the water. I'm not sure because you can't see well. It was dark there.

Q. From what you could see of the line, could you say whether they were pulling or not?

A. When I went aboard that morning I see them working on the water trying to get astern because she was pulling astern all the time, those Inter-Island boats, and afterward they slow it down.

Q. Were they pulling first time full speed or slow?

A. They was pulling full speed.

Q. Then they slowed down? A. Slowed down.

(Testimony of Richard Clarke.)

Q. Did you see the "Likelike" around there?

A. She was around there in the morning.

Q. Was she pulling?

A. I see her around there but I ain't quite sure.

Q. Could you give us the location of those boats— which was on the Diamond Head side and which was on the Ewa side and which was in the middle?

A. The "Mikahala" was on the Diamond Head side.

Q. What was next to the "Mikahala"?

A. This tugboat, "Intrepid."

Q. And what was next to the "Intrepid"? [1366—532] A. The "Helene."

Q. And what was next to the "Helene"?

A. There were three of them there when the other one, "Mauna Kea," the line carried away. There was three left.

Q. Do you know where—do you know which was next to the "Helene"? A. The "Intrepid."

Q. I thought you said that the "Intrepid" was on the Diamond Head side?

A. The "Mikahala" on the Diamond Head side, the "Intrepid" in the sea, and the "Helene"—

Q. The "Intrepid" was next to the "Mikahala"?

A. Yes.

Q. And next to the "Intrepid" was what?

A. The "Helene."

Q. And next to the "Helene" was what?

A. No more boats.

Q. Where was the "Mauna Kea"?

A. She left before.

Q. That's what I'm trying to get, when you first

(Testimony of Richard Clarke.)

went there in the morning where was the "Mauna Kea"?

A. The "Mauna Kea" between the "Intrepid" and the "Helene."

Q. The "Intrepid" and the "Helene"?

A. Yes.

Q. And where was the "Likelike"?

A. I can't tell where was the "Likelike." I saw him out there but I didn't know where he got his lines.

Q. Now, state whether or not the Inter-Island had had boats out ahead out at the stern of the "Celtic Chief" from the time she went on the reef. I withdraw that. When was the first time that you saw that there were boats out astern of the "Celtic Chief"? A. I saw them in the morning.

Q. Which morning? [1367—533]

A. I think it was Wednesday morning.

Q. How about Monday morning?

A. Monday morning what I saw out there was the launch "Huki Huki."

Q. From the time on Monday, did the Inter-Island send any boats out? A. I don't know.

Q. How about Tuesday, did they have any boats out on Tuesday?

A. I don't know. Wednesday, I know, on Wednesday morning because I came in Monday night, discharge my freight and go out that night, Tuesday night, and we stop out there until Wednesday morning I went aboard.

Q. Now, when did the "Arcona" come there?

A. Saw her around there in the afternoon.

(Testimony of Richard Clarke.)

Q. And what did she do? What day was that—Monday, Tuesday, or Wednesday?

A. I don't know; I think it was Wednesday.

Q. What time was it?

A. Well, she run a line on board of her.

Q. Where did she lay?

A. She lay right on top our anchor.

Q. Between what ships?

A. Between the "Mikahala" and the "Helene."

Q. What did she do?

A. She pulled, part her cable.

Q. Then what did she do?

A. Well, the sailors came aboard of her, fixed up her cable again and waiting for high tide, as I understood.

Mr. OLSON.—Object and move to strike on the ground it is hearsay and a conclusion of the witness.

Mr. MAGOON.—"Waiting for high tide I understood," may go out. [1368—534]

The COURT.—Stricken.

Mr. MAGOON.—Q. When they fixed up the cable what did they do? How did they fix it?

A. Well, fast new cable.

Q. Do you know how many cables?

A. Well, they have two cables, in each chock got one.

Q. Now, after that, after the "Arcona" got these two cables fastened to her, did you notice whether she did any pulling or not?

A. Oh, I don't think she was pulling; they was waiting for high tide.

Q. Was she pulling? Could you see whether or

(Testimony of Richard Clarke.)

not the water was turning up at her stern?

A. No, I got this anchor to tend to.

Q. Where was the anchor with reference to the "Arcona" or this German man-of-war?

A. Her anchor?

Q. Yes. A. The "Arcona's" anchor?

Q. Yes. A. She right in front her bow.

Q. Could you tell which way she was lying? Which way was her bow lying?

A. The bow was lying to Diamond Head, lying this way; right back astern of the "Celtic Chief."

Q. The bow was lying towards Diamond Head?

Mr. OLSON.—I object to that statement on the part of counsel.

A. The bow was to Diamond Head and her stern, the stern astern of the "Celtic Chief." The bow lay this way and the "Celtic Chief" lay this way. (Indicating.)

Q. The bow, you said, was lying towards Diamond Head, is that right? A. Her bow, yes, sir.

Q. Where was the stern of the "Arcona" pointed?

A. Pointed down this way. [1369—535]

Q. What do you mean by this way? Which way? Towards Kauai?

A. Towards Kauai, this way.

Q. Pointed right straight for Kauai?

A. I saw that she was laying this way.

Q. With reference to the points on this Island, never mind Kauai, which way was the bow?

A. Kaena Point, that is straight from Diamond head to that.

Q. Her stern was towards Kaena point?

(Testimony of Richard Clarke.)

A. Yes.

Q. And her bow was towards Diamond Head?

A. Towards Diamond Head.

Q. Well, now, and which way was the "Celtic Chief" lying? Which way was the "Celtic Chief" pointed? A. She was pointing shoreward.

Q. The stern?

A. The stern poke out into the sea.

Q. And which way was the bow pointing, of the "Celtic Chief"?

A. Pointing right into shore.

Q. Which way?

A. That's Kalihi, pointing between Kalihi and Moheola, Quarantine Island.

Q. How was she pointing toward Quarantine Island? A. The bow.

Q. And the stern was pointing which way?

A. Out in the sea.

Q. Now, I'd like to have you draw that as near as you can. Draw, if you please, the shore line.

(Witness draws.)

Q. Now, place the lighthouse there. Where was the "Celtic Chief" lying and which way was she lying? Make a round mark. Now, where was the "Arcona" lying and which way was she lying?

A. Diamond Head here.

Q. Oh, "Mikahala" there. Write "Mikahala." Now write [1370—536] "Celtic Chief." "Helene." Write "Miller."

Mr. OLSON.—Put a big "A" for the anchor.

Mr. MAGOON.—Q. Now, where was the "Intrepid"?

(Testimony of Richard Clarke.)

A. The "Intrepid" got the line, her line was here.
(Indicating on paper.) They cut it off.

Q. Put the "Intrepid," write here the word. The lighthouse now.

Mr. OLSON.—Put a big "L" for the lighthouse.

Mr. MAGOON.—Let me mark here Diamond Head.

Mr. WEAVER.—Q. Now, where's the Quarantine Island? A. Quarantine Island. (Indicating.)

Mr. OLSON.—Big "Q."

Mr. WEAVER.—Big "Q. I."

Mr. MAGOON.—Q. Where did you place the Quarantine Island—right there or right here?

A. Right here.

Q. Who rigged the purchase for the Miller salvage cable? A. Weisbarth and Tom Mayson.

Q. Were you present watching operations or not?

A. I was one of them.

Q. About what time did you get the purchase, or the cable taut?

Mr. OLSON.—I object to the question on the ground that it assumes—

Mr. MAGOON.—What did you do with reference to the cable attached to the Miller salvage anchor?

Mr. WARREN.—I object to that question, if the Court please, on the ground it appears that the witness didn't do it; that Wiesbarth and Mayson did it.
[1371—537]

Mr. MAGOON.—Q. What did you all do?

A. I place some men—

The COURT.—That question is not limited to any special work.

Mr. MAGOON.—I said with reference to the Mil-

(Testimony of Richard Clarke.)

ler salvage cable.

The COURT.—I allow the question.

Mr. MAGOON.—Answer the question Mr. Clarke. What work did you do with reference to the Miller Salvage cable?

A. Placed the men. Tom Mayson, I gave him four men to help at this job and six men to Wiesbarth and I had some men on the forward poop to get this windlass ready.

Q. And then what did you do?

A. Well, we commenced to rig up our blocks.

Q. And after you got your blocks rigged up what did you do? A. Hauled taut on it.

Q. Hauled taut on what?

A. On my hawser, and her blocks.

Q. What was that hawser attached to?

A. Attached to the main tackle.

Q. And then what was the main tackle attached to?

A. Attached to the second purchase we got. We had three purchases. The second purchase attached to the hawser, the third purchase fastened to the second purchase.

Q. How was the block of the main fall attached to the Miller salvage anchor? What was there between the two? How were your falls attached to the Miller Salvage anchor? How were they connected?

A. Oh, well, we connected with a hawser.

Q. With a hawser? A. With a hawser.

Q. What was the hawser connected to? [1372—538]

A. Connected to the wire cable.

Q. Now, you say you hauled taut on that hawser,

(Testimony of Richard Clarke.)

did you? A. Yes.

Q. Were you on the Miller, "Celtic Chief" all that time, Mr. Clarke?

A. I was there all day and all night.

Q. Did you leave the "Celtic Chief" at all for a short time—go off for a bit somewhere?

A. Not when we connection our anchor on.

Q. What I'm after is what did you do with reference to that?

A. I was on board of her all the time walking fore and aft watching my blocks and watching the men.

Q. How was the hawser that was attached to the cable brought to the "Celtic Chief"? How was that hawser, how did you get that hawser on board the "Celtic Chief"?

A. Well, taking in all the time.

Q. How did you get it on board the "Celtic Chief" the first time?

A. We got it down there the first time, four men and myself, with a small snatch block taking in that hawser.

Q. Now, you say that you got the line taut?

A. Yes.

Q. This cable to the Miller Salvage anchor got taut? A. Taut.

Q. About what time was that when you got it taut.

A. I've got no idea about time because I was busy all the time.

Q. Was it in the forenoon or the afternoon?

A. In the afternoon.

Q. How did you get it taut? You've explained to us about three purchases; how did you make this line

(Testimony of Richard Clarke.)

taut? Did you have a windlass or a winch or how?
[1373—539]

A. First we had the winch and the Inter-Island was using pretty busy on it so we shifted off to the windlass.

Q. How many men did you use on the windlass?

A. I had sixteen men forward.

Q. Any aft?

A. Well, I had some men watching the block and two men put on the poop in case of burning up that cable we got somebody to wet it up.

Q. Do you remember who those men were?

A. I had one Kakai Kau.

Q. Do you remember the other one?

A. The other one used to run around the deck. Sometime I see him go there smoke around, run around the deck.

Q. After you got the Miller salvage cable taut, what did you do the rest of the day?

A. What I do?

Q. Yes, with your men.

A. While my men was working at the windlass, some on the purchase watching and was hauling in inch by inch when she made the first jump. So we sung out—the men put a stop on our cable to fleet our blocks out.

Q. When did she make the first jump, do you think?

A. First time, I can't tell. I think it was between eight and ten o'clock.

Q. In the morning or in the night-time?

A. At night-time.

(Testimony of Richard Clarke.)

Q. How far did she move at that time, did you think, would you say?

A. Oh, we feel it on our fleeter about half the length of the ship; that's the first one we got.

Q. What do you mean by half length of the ship?

A. That is our first purchase. Number one is last one we attached to the windlass. [1374—540]

Q. But you spoke of something about half the length of the ship. What did you have reference to there?

A. Of the purchase when she made that jump.

Q. I'm trying to get how far the ship jumped.

A. You asked me what is the objects I got and I said—

Q. What did you say?

A. When you asked me about the length of the ship I said the first purchase I got, three and one-half inch rope pulled together and we had to fleet it out.

Q. What I'm trying to find out by you, Mr. Clarke, if you can tell us, how far the ship moved that first jump, not the fleeting of the purchase?

A. I felt it bump; that's all I know.

Q. Supposing the ship was lying as she was, can you tell us how far she moved astern?

A. Well, I had a light from the buoy to the shore, two lights, and when she jumped I went to my sight and I could tell she was moving.

Q. Could you tell how far she was moving?

A. I couldn't tell.

Q. But you felt she was moving?

A. I felt she was moving.

Q. Now, after you felt she was moving that way,

(Testimony of Richard Clarke.)

what did you do? I'll withdraw that. After you felt this first jump you felt that she was moving, what did you do with your blocks?

A. We put a stop on our hawser and we pulled it up, that lines; take them out again, take them out the purchase.

Q. Now, how near was these two blocks together, this third purchase block at the time you fleeted them? How near were those blocks together?

A. It ain't very close. I think from here to that chair [1375—541] where that hat is.

Q. About eighteen feet? A. Eighteen feet.

Q. When you fleeted your blocks that time, this third purchase block, how far did you shift the blocks?

A. Well, the block, the first block we got is from the fore part of the ship to the forward part of the poop. That's where the first block reaches. The second block comes about a foot away from the other; we had it fastened again to the bitt, we can't put it up together; first thing you know we get jammed together, the third block is between them.

Q. You say that when the ship gave a jump the third of the blocks were about eighteen feet apart; is that right? A. Yes.

Q. After they were fleeted, how far were these two blocks apart, about?

A. You know how far it is from the poop.

Q. What did you do when you fleet the blocks?

A. We hauled it out.

Q. Hauled what out? A. The two blocks.

Q. Which two blocks?

(Testimony of Richard Clarke.)

A. Number three. The three and a half inch.

Q. How far apart were those two blocks when you had finished fleetting this third tackle?

A. Quite a distance.

Q. About how far?

A. I don't know how long was that ship. I can't show you which way she is; I have no idea.

Q. You said the second purchase was next to the main tackle. Wasn't it inside those blocks?

A. Yes. [1376—542]

Q. Was the third purchase inside of the second purchase or not?

A. The first one comes out this way and the second and third.

Q. When the blocks all came together were they far apart?

A. Far apart, about two or three feet away from each other.

Q. When you fleetted the third purchase tackle, did you take the block forward again, the leading block?

A. Lift right up.

Q. After you lifted the block up there, what did you do? What did you do to fleet it?

A. Heave on.

Q. Before you heaved on it didn't you attach it to something?

A. Before that we put a strap you know. We call it a stop.

Q. On what? A. On the hawser.

Q. On which hawser?

A. The main hawser we had in front, and we had some on the tackle too.

(Testimony of Richard Clarke.)

Q. On the first purchase tackle?

A. On the first purchase tackle. After we got it tied to this we tied on, we call it rope yard what we put on those tackles.

Q. Then you took your third tackle block up forward? A. Yes.

Q. What did you do with it—hook it on to something? A. Fastened to that, the main bitt.

Q. The third purchase tackle?

A. We had a sling from the main—

Q. I know, but this third tackle, second purchase tackle, these two blocks, were eighteen feet apart?

A. Yes. [1377—543]

Q. After you. When you fleeted your tackle that time, did your purchase, what did you do with that block and tackle up forward?

A. We hooked on the same place we had it before.

Q. Hooked on to what? A. To the strap.

Q. What was that that you hooked on to?

A. Tackle.

Q. On the second tackle?

A. On the third tackle.

Q. How many tackles did you have there that day?

A. I had three sets.

Q. And you hooked. We're talking about this third tackle. Can't you tell us what you did when you fleeted the third tackle?

Mr. OLSON.—We'll admit it.

A. I remember hooked on that third tackle on the fall of the second tackle.

Q. Then what did you do?

A. Sing out the men, "Go ahead on it."

(Testimony of Richard Clarke.)

Q. Did they go ahead? A. They did.

Q. What was the next thing that happened after that?

A. Well, when my tackle dropped down after than we got through fleeting and I saw all this falls coming down. The tackle—

Q. When the tackle got down—

Mr. OLSON.—Let him get through answering his question.

A. I sing up to Captain Miller, "She's coming off." He said, "Shut up."

Mr. OLSON.—Q. What said?

A. Miller said, "Shut up! Keep your men going." I said. My boys all happy now.

Mr. MAGOON.—Q. What time was that?

A. I can't tell you exactly. Between ten and twelve o'clock. [1378—544]

Q. Now, what did you observe, what was the first thing that you observed with reference to your tackle at that time? What did you see first? What happened to your tackle?

A. Nothing happened after my tackle dropped down and I saw fireworks fired.

Mr. OLSON.—Q. Saw what?

A. Fireworks, red fireworks.

Mr. MAGOON.—Q. After the fireworks what happened?

A. When the fireworks went up I saw we close to that man-of-war, the "Arcona."

Q. What were those fireworks that you saw?

A. After we got outside we asked the boys what it meant. They said—

(Testimony of Richard Clarke.)

Mr. OLSON.—I object to that as hearsay.

Mr. MAGOON.—Q. What kind of fireworks?

A. Red fireworks.

Q. Who sent it up?

A. One of the officers on the other ship, the man-of-war.

Q. Do you know about any signals to be given?

A. No, I haven't heard it.

Q. Now, besides the fireworks, did you know anything about any lanterns, any lights?

A. I didn't keep no lights.

Q. Did you see if there were any lights in the rigging?

A. There was light there in the rigging.

Q. What kind of light?

A. First light white light, afterwards they hoist up the other light, red one.

Q. How many?

A. Only one I see, on the topmast.

Q. Now, after the tackles fell down, what was the next [1379—545] thing that you—and after the lights, fireworks went up, what was the next thing that you saw?

A. When the fireworks went up we unhook our cable because she's off already.

Q. She was free? A. She was free.

Q. Could you give us any idea how close you came to the "Arcona," that German man-of-war?

A. No, but I could see them running behind there hauling in there wire.

Q. Taking it with reference to some object near to from Beretania Street, down Fort Street, can

(Testimony of Richard Clarke.)

you give us how far it would be?

A. I think that's little too far.

Q. Beginning from Beretania.

A. I think from Beretania down to Club Stables.

Q. That you came to the "Arcona"? A. Yes.

Q. From Beretania to Club Stables? Now, did you take—

Mr. OLSON.—At this point I would like to have some admission in the record of what that distance is.

Mr. MAGOON.—We'll have it measured.

The WITNESS.—Little bit more or less.

Mr. MAGOON.—Q. Now, when you get out there, what happened with reference to the "Celtic Chief"? What was done with her?

A. Well, they tow it out.

Q. Who towed it out? A. The "Arcona."

Q. Where was the Miller salvage cable at that time? A. We let it go at that time.

Q. Where were the cables or hawsers from the other ships? A. They was chopped off.

Q. Now, how long a time should you say it was between the first jump and the time when the blocks fell down? [1380—546] About how long?

A. Space between?

Q. Time, yes. How long, how many minutes, how many hours, or how many days, between the time when you felt the first jump and the time when the blocks fell down?

A. I didn't have no time with me to tell exactly the time.

Q. I didn't think you did. I want to get your best judgment.

(Testimony of Richard Clarke.)

A. It's when I felt the first jump, that's between the first jump.

Q. How long after that before the ship came off?

A. The second time is—from the second time I asked around the boys, "What time is it now? It's getting late. I'm hungry." They said, "Heave on, Dick; don't be afraid about your kaukau; we'll get there to-night." When she came out about ten or eleven o'clock I said to the boys, "Now, we get our meal." I was getting hungry. I didn't have nothing to eat. They said "Never mind, Dick, never mind your kaukau; drink water and eat salt?"

Q. You can't give us any idea between the time you felt the first jump and the blocks fell down?

A. I can't say.

Q. Was it a long time or a short time?

A. Maybe one hour.

Q. Maybe one hour? A. More or less.

Q. Now, during the time that you were pulling on the Miller salvage anchor in this way, state whether or not you observed these boats out there; that is, the "Mikahala," the "Helene," and the other boats. Did you look at those boats ever?

A. Oh, I looked around the side fifteen or twenty minutes, something like that I used to pass on the deck.

Q. Every how many minutes?

A. Fifteen or twenty minutes.

Q. What can you say as to whether or not these boats were [1381—547] pulling, these boats that were standing out there. The "Mikahala," the "Helene," and the other boat?

(Testimony of Richard Clarke.)

A. I can't tell you they are pulling because I can see their line there in the water. I've got no idea they pulling or not.

Q. Could you tell whether their lines were taut or not?

A. When the line get wet with the water you can't tell whether they hauling taut or not, because I saw them hanging in the water and the "Helene" was taking in the slack.

Q. Now, what were they doing as far as you could observe at the time that the "Celtic Chief" made this first jump? Were they pulling or not?

A. Well, a lot of them was talking about waiting high tide.

Mr. OLSON.—Move to strike on the ground it's hearsay.

The COURT.—Granted.

Mr. WARREN.—And not responsive.

Mr. MAGOON.—Q. I'm asking you about these boats, these steamers, at the time that the "Celtic Chief" made this first jump, were those steamers pulling or not, as far as your observation went?

A. Miller told me—

Q. Never mind what Miller said.

Mr. OLSON.—Move to strike.

Mr. MAGOON.—I want to know what you saw about it, whether they were pulling or not?

A. I have no idea.

Q. Did you notice the lines about that time?

A. The lines were hanging in the water.

Q. Did you notice the lines on, that were attached to [1382—548] these boats on the deck of the

(Testimony of Richard Clarke.)

“Celtic Chief”? Could you tell whether or not they were taut by what was being done there?

A. Well, I passed there, I looked around the side. I put some canvas bags along the line and you can easily tell when they pulling; the line always raise out of the water.

Q. Well, were these boats pulling or not, then?

Mr. WARREN.—Object to the question as already asked and answered several times.

The COURT.—Objection overruled.

A. I can't tell because I can't see always. You can tell when they pulling the lines were taut.

Q. All right. Were these lines taut or not, these steamers? A. She was lying on the water.

Q. Were they taut or not, can you say?

A. I pass, look around the side every time. Of course, I don't come and feel the lines, but I see they riding on the water.

Q. What did that convey to your mind?

A. To my mind, I think they ain't taut.

The COURT.—With reference to this paper, I understand it is in evidence?

Mr. MAGOON.—Yes, your Honor, I'd like to have it marked.

The COURT.—It may be admitted in evidence then and marked in the proper way.

Recess.

Mr. MAGOON.—Q. When the “Celtic Chief” made that first jump, where was Captain Miller?

A. He was down the cabin.

Q. How long after that was it before he came to where you [1383—549] were?

(Testimony of Richard Clarke.)

A. Ran up on the poop.

Mr. OLSON.—Q. Who ran up on the poop?

A. I.

Mr. MAGOON.—Q. What did you do up there?

A. I wanted to sing out to him.

Q. To Captain Miller?

A. To Captain Miller.

Q. What did you want to sing out to Captain Miller? A. Because I feel that jump.

Q. Did you tell him about it?

A. I did. He said that he feel it too.

Mr. STANLEY.—Move that be stricken.

Mr. OLSON.—Move that it be stricken on the ground it is hearsay.

The COURT.—I grant the motion.

Mr. MAGOON.—Q. Now, apart from that jump that you say, that you spoke of, did you notice anything, any movement of the "Celtic Chief" before the tackle fell down—outside of that jump? Anything else beside that?

A. Why, she made that jump.

Q. Was there anything else to show she moved? Did you hear anything or see anything or feel anything?

A. I went on my sight, I had a sight from the bitt to the shore, a light, and when I went over and looked, she was little more over; then I went to my tackle to look around so I went on those tackles the way how it was going a little while bumping and I, my main tackle come down, so I sing to the boys, "Put a stop on it."

Mr. OLSON.—Q. Put a what?

(Testimony of Richard Clarke.)

A. Put a stopper and hold it so we fleet our tackle. So we made a stop and we [1384—550] fleet.

Mr. MAGOON.—Q. How many times did you do that before she finally came off? A. Twice.

Q. While you were working on this windlass, could you feel anything with reference to the motion of the “Celtic Chief” as to whether she was fast or coming off the reef?

A. Well, we feel it at the first when we started. It’s fast and keep on working at it and comes to feel it that she was moving.

Q. How could you feel that moving?

A. By the way how that tackles are working.

Q. Anything else? Any other way?

A. In the night-time I take my sights on the shore because in the daytime hardly can get any sights from the shore.

Q. How about the keel of the vessel—was there anything about that that brought to your senses whether or not the ship was moving?

Mr. OLSON.—Object to the question on the ground it is leading.

The COURT.—Motion granted.

Mr. MAGOON.—Q. Do you know anything about a keel of a ship?

A. I haven’t got no idea about the keel of the ship.

Q. Never saw one?

A. Never saw one when she is on the reef.

Q. Without being on the reef, have you ever seen the keel of a ship? A. I seen on the drydock.

Q. What part of the ship is the keel?

A. Bottom part of the ship. [1385—551]

(Testimony of Richard Clarke.)

Q. What part of the ship is the keel?

A. From amidship forward, right on the bottom.

Mr. OLSON.—Q. From the amidship, forward?

A. Forward and aft; yes.

Mr. MAGOON.—Q. How far does the keel extend, do you know?

A. Got no idea to find out where the keel.

Q. Was there any movement by the "Celtic Chief" which would indicate to you whether she was stationary on that reef or coming off, after the first jump that she made?

A. When she made the first jump she was dragging herself.

Q. That's when she made the first jump she was doing what? A. Dragging.

Q. How could you tell she was dragging?

A. By the working of those tackles.

Q. And how could you tell by looking over the tackles that she was dragging?

A. The strain we was taking in through the windlass. Taking inch by inch.

Q. Did you take any sights of the "Celtic Chief" on Monday, as to her location?

A. Monday? I didn't take no sights on Monday because I was busy on discharging her.

Q. Did you take any on Tuesday?

A. Tuesday? No, sir.

Q. When was the first sight that you took to ascertain her position? A. Where I took my sight?

Q. What was the first time you took a sight?

A. Took it on the starboard side of the deck.

(Testimony of Richard Clarke.)

Q. When was the first time? Wednesday or Wednesday night?

A. Wednesday. Wednesday evening. [1386—552]

Q. How did you get up on the poop of the “Celtic Chief” Wednesday after you got your Miller chain or line taut?

A. I was out down everywhere on that ship that night.

Q. How often would you go up on the poop?

A. Fifteen or twenty minutes, looking all around.

Q. What would you go up there for?

A. Looking my hawser.

Q. Now, how long before the “Celtic Chief” came off was the last time that you were on the poop?

A. Between ten and twelve.

Q. You know when the “Celtic Chief” came off the reef, don’t you? You remember that? How many minutes, or how many hours was it before she came off that you were up on the poop the last time?

A. I have no idea about the times because I didn’t have no time with me that day to tell exactly what time.

Q. I didn’t ask you exactly but about how long was it, an hour or half an hour or ten minutes?

A. When she made the first jump?

Q. Or two hours or three hours, that you went on the poop deck before she came off the last time?

A. About an hour.

Q. At that time, did you notice the lines from the “Arcona”?

A. She was laying in the water.

(Testimony of Richard Clarke.)

Q. Could you tell whether or not the Arcona was using her propeller, turning up the water at the stern?

A. Never turned no water till the fireworks.

Mr. STANLEY.—Q. What's that?

A. They never turned no water till the fireworks went up.

Mr. MAGOON.—Q. Could you tell whether or not the "Arcona" was pulling? [1387—553]

A. The search-light gives the note. You could see everything. They had two search-lights up.

Q. At the time that the "Celtic Chief" came off the reef, was the "Arcona" pulling?

A. She wasn't pulling at that present time.

Q. How about the "Mikahala"—was she pulling at the time the "Celtic Chief" came off the reef?

A. Well, I see it hanging on the line, the line was hanging on the water.

Q. Can't you tell whether she was pulling or not? Doesn't that indicate to your mind whether she was?

A. Take the Inter-Island boat; when they pulling you see the line working up and down. When they ain't pulling lay right down.

Q. How about the "Helene," was she pulling at the time the "Celtic Chief" came off?

A. She was taking in freight.

Q. At the time the "Celtic Chief" came off?

A. These boats was passing up and down to her.

Q. My question is was she pulling? I want to find out whether she was pulling at the time the "Celtic Chief" came off the reef?

(Testimony of Richard Clarke.)

A. I've got no idea if she's pulling because she is lightering cargo.

Q. Did you observe the line?

A. I see the line.

Q. What was the condition of the line?

A. Laying in the water.

Q. Was there any other vessels pulling, any other vessels in that location at the time the "Celtic Chief" came off? A. No other vessels. [1388—554]

Q. Only the "Mikahala" and the "Helene"?

A. "Helene" and the "Arcona." Only three boats was there.

Q. Where was the "Likelike," then, at the time that the "Celtic Chief" came off?

A. She wasn't there.

Q. Now, I want to ask you a little more in detail about the effort which you made to get a line on board the "Celtic Chief," on Tuesday evening. What did you say with reference to that matter?

A. Well, we tried to get a boat from the "Mokoli." We couldn't get a boat.

Q. Why not?

A. Well, they wouldn't give us a boat.

Q. Who wouldn't give you?

A. Scotty. He was going to take our line; couldn't get it.

Q. Why not? A. Because she can't get near.

Q. Why can't she come near?

A. Might the weather wasn't suit her.

Mr. OLSON.—I move to strike the last answer on the ground it is irresponsive and also that it is incompetent, irrelevant, and immaterial, and, further-

(Testimony of Richard Clarke.)

more, on the ground it is merely a surmise of the witness.

Mr. MAGOON.—Have no objection.

The COURT.—May be stricken.

Mr. MAGOON.—Q. Where were you when this line was sent out to be put on board the "Celtic Chief" on Tuesday evening?

A. We didn't pass no line Tuesday evening.

Q. What did you do with that line?

A. We threw a heave line, couldn't get it.

Q. From where did you throw the heave line?

A. From the "Makee" to the "Mokolii."

Q. From the "Makee" to the "Mokolii"? [1389—555] A. Yes, sir.

Q. Oh; and what became of that line that you threw that way? A. So she—

Q. What became of the line?

A. We threw it. We held one end.

Q. What became of that end that you threw?

A. They missed it, went in the water. We hauled back that heave line.

Q. Then what did you do?

A. So we stayed till next morning. We anchored out there with our small anchor.

Q. You said that you took sights on Wednesday evening. About how often did you take those sights? A. Twenty or thirty-five minutes.

Q. And what did you observe in taking those sights with reference to the position of the "Celtic Chief"?

A. So I could tell if she is moving or not.

Q. And did she move? A. She did move.

(Testimony of Richard Clarke.)

Q. How often did you observe that she was moving by the sights that you were taking?

A. Well, while I'm fore and aft on the ship. Sing out to the windlass boys, "How things coming?" "Pretty good now, Dick," so I go aft on the poop, look down that hawser and pretty good holding on, then came back, saw my sights was moving, saw the ship little by little.

Q. See the ship little by little what?

A. Going out.

The COURT.—Did you go out in the "James Makee" or the "Mokolii" Tuesday?

A. I went out on the "James Makee."

Mr. MAGOON.—Q. This that you have given of the men working, those [1390—556] men were all laborers, were they, or does this include Captain Wiesbarth and yourself? A. Yes.

Q. And Tom Mason?

A. Yes, sir. I was giving them the order.

Q. This book that you have given us, does that contain all the men who worked, including yourself and Captain Wiesbarth?

A. No, except Captain Wiesbarth.

Q. Yourself? A. Myself, Tom Mason.

Q. Does it include yourself? A. Myself.

Q. Were you a two-dollar man?

A. I gave him the whole total, the number of men.

Q. You gave what?

A. I figure little while ago and give him the whole total.

Q. And yourself? A. Myself.

Q. Captain Wiesbarth?

(Testimony of Richard Clarke.)

A. Except Captain Wiesbarth,

Q. How about Tom Mason? A. Tom Mason.

Q. How much were you getting, Mr. Clarke?

A. Four dollars a day.

Q. How much for overtime?

A. Dollar an hour.

Q. In testifying from this book you gave us the time of the men.

A. Only the men's time, except my time. The laborers' time I give them.

Q. Now, I'd like to get your own time and Mr. Mason's time and Captain Wiesbarth's time.

A. I don't know Wiesbarth's time. I don't know what they pay to Mason, but I have his time down.

The COURT.—Q. Did you give Mr. Mason's time this morning? A. Yes, sir.

Mr. MAGOON.— [1391—557] Q. Can you tell us how many days and how many hours overtime Mr. Mason worked himself? Was Mr. Mason a two-dollar a day man?

A. Well, I had him two dollars a day; I don't know what they paid him. That's outside.

Q. Withdraw it, then. Have you given us Captain Wiesbarth's time?

A. No, I haven't got his time.

Q. Now, about your own time. Did you give your own time this morning?

A. Yes, sir, I turned in my time.

Q. This morning, you gave that this morning.

A. Yes.

Q. How many days did you work?

A. I worked four days.

(Testimony of Richard Clarke.)

Q. At \$4.00 a day? A. \$4.00 a day.

Q. How much overtime, if any?

A. I think I got thirty-two hours overtime. I'll let you know.

Q. Just look it up.

A. Twenty-one hours overtime.

Q. At a dollar an hour? A. Dollar an hour.

Mr. OLSON.—Q. Four days and twenty-one hours overtime, yourself.

A. Four days and a half on Friday.

Q. Friday? A. I was working for Miller.

Q. And the time you spent here on the "Celtic Chief"? A. Four days.

Mr. STANLEY.—Q. No overtime?

A. Twenty-six hours' overtime.

Mr. WEAVER.—Q. Twenty-six or twenty-one?
[1392—558]

A. Eleven, five, and ten, twenty-six.

Mr. MAGOON.—Q. There was one more day that you spoke of that you worked discharging cargo or some other work. A. On Friday?

Q. Yes. A. Returning all his gear.

Q. That you had used in connection with the "Celtic Chief"? A. Yes.

Q. The same gear you had been using on the "Celtic Chief"? A. Yes.

Mr. MAGOON.—That's all.

Cross-examination on Behalf of Libellee.

Mr. OLSON.—You once in a while would come along and take a look at the Miller anchor-line, wouldn't you? A. Yes.

Q. How did that anchor-line lie with reference to

(Testimony of Richard Clarke.)

the water? Did it hang down in a bight, heavy, or was it absolutely straight? A. Straight.

Q. Absolutely straight right down to the anchor?

A. Right down to the anchor.

Q. Now, how far from the stern of the "Celtic Chief" would you say where the anchor-line touched the water?

A. Thirty feet, because the line was right in the water.

Q. Do you know how deep the water was around there? A. No, sir.

Q. Fifteen or twenty?

A. Little more than that.

Q. Twenty-five feet?

A. Not twenty-five; eighteen or twenty.

Q. And how far was the "Celtic Chief" out of the water at the stern, do you think, up to the top of the poop deck? [1393—559]

A. About twenty-two feet.

Q. And the line of the Miller anchor went right over the poop deck?

A. Right over the poop deck.

Q. So at the point where it went over the side of the vessel, over the stern, would be twenty-two feet. And it was thirty feet from there where it went in the water? A. Yes.

Q. If the water was about twenty feet deep around there, that would mean that the anchor would be sixty or seventy feet beyond where the line came on the "Celtic Chief"? A. The anchor was further out.

Q. Then how could it be only thirty feet from the stern of the "Celtic Chief"?

(Testimony of Richard Clarke.)

A. Because it was a long, straight pull.

Q. It was a heavy line and hung in a curve?

A. It wasn't curved. Taut from the stern of the ship.

Q. But there would be a curve from there on?

A. Maybe down the—

Q. It probably would not be straight down to the stern of the ship?

Mr. MAGOON.—I object to this.

The COURT.—The form of the question is, I think, objectionable.

Mr. OLSON.—I withdraw my question and adopt the Court's suggestion. Now, Mr. Clarke—

A. Yes, sir.

Q. From your general knowledge— A. Yes.

Q. And from the experience that you have testified to on your direct examination, would you say that that eight-inch wire line that hung, eight-inch wire line that the Miller Salvage Company was using was absolutely straight [1394—560] from the stern of the "Celtic Chief" right down to the anchor, or would you say that it was lying in a curve?

Mr. WEAVER.—I object to that question on the the ground it assumes a fact not in evidence.

Mr. OLSON.—I'll supplement my question by saying an eight-inch straight wire, I mean an eight-inch straight wire that is eight inches around, in circumference. Do you think, judging from your experience that you've testified to on direct examination, do you think, Mr. Clarke, that a wire line or cable, steel and eight inches in circumference, leading from the stern of the "Celtic Chief" to the

(Testimony of Richard Clarke.)

anchor of the Miller Salvage Company, where it was laid, would, if having applied to it the power that you have testified to, nevertheless be straight or would it, in your opinion, maintain a curve?

Mr. WEAVER.—We object to that question for the same reason.

The COURT.—Objection overruled. Answer the question.

Mr. WEAVER.—Note an exception.

The COURT.—An exception is allowed.

A. What I saw is taut, out of the water.

Q. I'll ask you what you think is possible under those circumstances. Would it be possible for such a line with the power exerted that you have testified to, would it be possible for that wire to be absolutely taut from the anchor to the "Celtic Chief" and in a straight line?

A. I remember her staying out of the water.

Q. I'm asking you whether or not, in your opinion, a line of that kind could be pulled to an absolutely straight line from the anchor to the "Celtic Chief." Do you think that's possible?

A. The wire always will go down on the land.
[1395—561]

Q. On the bottom of the ocean?

A. On the bottom of the ocean; you take any wire.

Q. And so it was with this Miller wire? And about thirty feet from the "Celtic Chief" this line went down to the water? A. To the water.

Q. And must have gone down to the bottom. In other words, this wire was not in a straight line?

A. She was right straight there.

(Testimony of Richard Clarke.)

Q. But this line went to the bottom of the ocean, then followed the bottom over to the anchor. It was such a heavy line? A. Yes, it was a heavy line.

Q. So that it went down from the stern of the "Celtic Chief" down to the bottom of the water then followed along the bottom to the anchor?

A. Over to the anchor.

Q. That's the way it was according to your opinion and observation, that's correct? A. Correct.

Q. And that was so during the time you were heaving in on that line? A. I was heaving all the time.

Q. As far as you observed the line didn't go into the water about thirty feet from the stern?

A. Thirty.

Q. And you went upon poop deck and looked at that line? A. Yes.

Q. And that's the way it was?

A. Works up and down.

Q. Once in a while it would vary somewhat and go up and down? A. Up and down.

Q. Sometimes it would be nearer to the stern and sometimes it would be further off?

A. When she raised she raised more than that.

Q. And sometimes come nearer than that? [1396—562]

A. That's the nearest I could tell, thirty feet.

Q. Sometimes more than that? A. Maybe.

Q. You mean sometimes one way and sometimes the other? A. Going out and in.

Q. It wouldn't be absolutely a still, quiet, and unchanged wire, but it would be varying back and forth?

(Testimony of Richard Clarke.)

A. It wouldn't fall down.

Q. But sometimes it would come up farther and sometimes go down farther?

A. She working up and down like that and our wire is taut down.

Q. Sometimes the wire would come out of the water more and sometimes less?

A. No less than thirty feet.

Q. Sometimes it would be more than thirty feet and then it would come back again to about thirty feet. A. Yes.

Q. Now, did you notice that the "Celtic Chief" was moving any at all—that is, coming up and down with the swell of the water?

A. She was moving while we was heaving at it.

Q. But wasn't there some swell there—sea?

A. There was little bit swell coming in.

Q. Wouldn't that tend to raise the stern of the "Celtic Chief" somewhat? Wouldn't she bump up and down once in a while with the sea?

A. When we was out there she wasn't bumping.

Q. She didn't bump at all on Wednesday—she was lying perfectly quiet? A. No.

Q. You were on board of her all day on Wednesday? A. Yes.

Q. You didn't notice any bumping at all? [1397—563]

A. When we got the gear all rigged up and we started to work it we commenced to move around.

Q. But did the "Celtic Chief" pound and bump during Wednesday? A. In the evening, yes, sir.

(Testimony of Richard Clarke.)

Q. That was when she began to come?

A. When she began to come off.

Q. Was there any swell such that would raise her up and bring her down with a bump?

A. I've got no idea about that.

Q. You didn't feel any bumping of her, up and down, Wednesday afternoon?

A. Didn't take no notice about it.

Q. You didn't feel nor observe any?

A. I only felt the time we got her off.

Q. There was no bumping so far as you know?

Mr. MAGOON.—I object on the ground it has been asked and answered.

Mr. OLSON.—Q. You didn't feel or observe any bumping?

A. Wednesday afternoon? I says I haven't got any idea about it.

Q. Can't you answer yes or no? Did you feel or observe any pulling or bumping Wednesday, on the bottom, Wednesday afternoon? Don't you know?

A. I forget.

Q. Why did you take so long?

A. I forgot. It's two years now. It's pretty hard to bring it back.

Q. You don't now remember whether or not she was bumping?

Mr. MAGOON.—I object to it.

The COURT.—Objection overruled.

A. No notice of it. [1398—564]

Mr. OLSON.—Q. The weather on Wednesday was pretty much the same, was it, as it was on Tuesday and Monday?

(Testimony of Richard Clarke.)

A. I think on Monday it's regular swell.

Q. More swell on Monday than it was on Wednesday? A. Yes.

Q. But wasn't it windier on Tuesday, Wednesday, than it was Monday? A. Swell at long time.

Q. And that was so all day Tuesday. Wasn't it a fair, fine, smooth day on Tuesday?

A. Tuesday I was not there; unloading my ship.

Q. But you went out there Tuesday evening?

A. I went out there in the evening.

Q. And wasn't it fine and fair and smooth all that day?

A. More wind; we can't get our line on the "Mokolii."

Q. Where was the wind from?

A. What you call a southerly wind.

Q. Was it stormy? A. Not stormy.

Q. It was a fair evening. A. Pretty fair.

Q. There wasn't any swell that was rough?

A. Little swell.

Q. Not much?

A. Five or ten minutes the swell come in.

Q. Coming only every five or ten minutes that swell wouldn't be over a couple of feet high, would it?

A. I think the swell was six feet high when it comes.

Q. Then it must have been breaking very heavy.

A. The break is right in front of us.

Q. It would break right in front of the "Celtic Chief"? A. Yes, where the breakwater is. [1399

—565]

Q. You think this was a six-foot swell?

(Testimony of Richard Clarke.)

A. With a big belly.

Q. And somewhere around six feet and yet there was no storm?

Mr. MAGOON.—I object to it; he said there was no storm.

The COURT.—Objection overruled.

A. There was no storm.

Mr. OLSON.—Q. There hadn't been any storm on Monday?

A. Monday there was a little wind blowing.

Q. What you would call a storm?

A. A storm is when there is a sea falling on the mast.

Q. Was there a heavy sea running at any time on Monday, Tuesday, or Wednesday? A. Heavy sea.

Q. The waves would run twenty or thirty feet high? A. Not so high as that.

Q. How high? A. Somewhere around eight or ten feet.

Q. Would they break up on the deck on Monday?

A. Not on deck.

Q. The Miller Salvage Company had the "Concord" and the "Kaimiola" and the "Makee" out there taking cargo out of the "Celtic Chief"?

A. Yes. We had to put a fender on the side, big bale of hay.

Q. But they were, nevertheless, able to take in the cargo. A. We had some kind of lines.

Q. They were there taking off cargo? A. Yes.

Q. And they were able to do it?

A. They was doing it.

Q. And all that they did was to break away a line

(Testimony of Richard Clarke.)

or two? [1400—566] A. Broke a line or two.

Q. One or two?

A. The "Kaimiloa" broke one line and "Makee" one, two lines.

Q. Two lines? A. Three lines.

Q. Those were lines that had been used?

A. We had new lines.

Q. One of those that broke? A. No.

Q. The new rope didn't break?

A. Afterward carried away.

Q. Which one?

A. One of the lines of the "Celtic Chief."

Q. A new one. A. Pretty new one.

Q. It had been used before?

A. I don't know. It was lying on the deck.

Q. Why did you say it was new?

A. It looks new.

Q. And it carried away one of the bitts of the "Kaimiloa"? A. Yes, wood bitt.

Q. And that's all? A. That's all I noticed.

Q. Was that an iron or wooden bitt?

A. "Kaimiloa"?

Q. Yes.

A. I think it's an iron, not a wooden bitt.

Q. Which one carried away?

A. Well, I didn't notice about those.

Q. The "Kaimiloa" is an old boat?

A. Well, she's pretty old boat.

Q. And the timber right there where the bitt was torn away was pretty old and rotten?

A. I didn't test this bitt.

Q. You looked at it? A. I saw them.

(Testimony of Richard Clarke.)

Q. It looked pretty rotten? A. I never seen it.

Q. You didn't look at all?

A. I just passing on the side.

Q. Didn't show the fact that it was pretty old and rotten [1401—567] where the bitt was torn away?

A. Maybe that's a new bitt put in there for all I know.

Q. You don't know at all?

A. I don't know nothing about that.

Q. I think you've testified on direct examination, Mr. Clarke, that you were engaged for several days with Captain Medcalfe in the salvage of the "Manchuria," off on the other side of the island; is that so?

A. Yes.

Q. How long were you working?

A. I worked there ten days.

Q. Were you there when she came off?

A. I left there.

Q. Why did you testify there were no vessels pulling on her? A. I was there until that morning.

Q. You were asked to say whether there were any vessels pulling on her at the time when she came off; why did you say there were no vessels pulling on her?

A. Well, I asked the mate.

Q. It was because you asked someone?

A. Because when I came back to work my contract I had left her on Sunday morning.

Q. The vessel came off Sunday?

A. Came off Sunday.

Q. About one o'clock?

A. I don't know what time because I was up here.

Q. It was after daylight on Sunday?

(Testimony of Richard Clarke.)

A. Was daylight.

Q. And you weren't out there at all when she came off? A. No.

Q. So you don't know what was done.

A. When she came off I came over and I asked the mate.

Q. You don't know of your own knowledge what brought her off? A. The anchor.

Q. How do you know?

A. Because I heard it. [1402—568]

Q. How do you know what brought it off?

A. Because we heaved it tight that night.

Q. There might have been some other anchors laid there?

A. There was no other anchors only this anchor.

Q. How do you know?

A. Because I went out there and inspected all those places.

Q. When? A. Two or three times.

Q. How do you know that there weren't several to the vessels pulling on her? A. I asked the mate.

Q. Do you know of your own knowledge? Do you yourself know whether or not there were any other vessels pulling there?

A. There was no other vessel pulling.

Q. How do you know when you weren't there?

A. Because I was there Saturday and I left there.

Q. Do you know what vessels came there?

A. There were no vessels. I asked the captain and mate.

Q. You don't know of your own knowledge?

A. I don't know.

(Testimony of Richard Clarke.)

Mr. WARREN.—I think perhaps it is proper, at this time, to have to strike from the record the testimony of the witness as to what tendency that pulling on the “Manchuria” had.

Mr. OLSON.—I join in that motion.

Mr. WARREN.—I will renew my motion to strike from the record all of the testimony of this witness given in this case as to what forces were in operation at the time the “Manchuria” was pulled off the reef on Sunday.

The COURT.—Have you any objection to that, Mr. Magoon?

Mr. MAGOON.—Yes, because it strikes out—

The COURT.—The motion is granted.

Mr. OLSON.—Now, Mr. Clarke, when you left the scene of the “Manchuria’s” stranding on the other side of the island on Saturday, the day before she came off, isn’t it the fact that the “Restorer,” cable-ship “Restorer,” a large vessel, had a line attached to the “Manchuria”?

A. They were ordered to stand by. [1403—569]

Q. Didn’t she have a line on her?

A. She had a line on her.

Q. Do you know whether or not she was exerting any strain? A. I haven’t got no idea.

Q. So that when you say that there were no vessels at all you don’t mean to say the “Restorer” wasn’t pulling?

A. She wasn’t pulling when we taut up all the anchor, taut that anchor and came to Honolulu.

Q. She had a line attached?

(Testimony of Richard Clarke.)

A. She had a line since the time they were out there.

Q. Was the "Manning" out there? What's that?

A. I think she was there twenty days.

Q. Wasn't the "Manning" out there?

A. No, she wasn't there.

Q. Wasn't she there any of the time?

A. She was there a couple of days before.

Q. Do you know how Captain Medcalfe exerted a strain upon the cable which *which* the anchors were connected with the "Manchuria"?

A. I got no idea about it.

Q. They had a capstan on board the "Manchuria" and had fifty or sixty men pulling?

A. They had a capstan and winch.

Q. Isn't it a fact that that didn't have any effect at all, but that they only had a steam winch and that's the only means they used? A. Forward winch.

Q. Isn't that the only power that they exerted upon that anchor cable? A. A steam winch.

Q. That's what they used entirely?

A. Steam winch.

Q. They didn't use any deck capstan or windlass?

A. I haven't seen any.

Q. They had a donkey-engine there?

A. Donkey. [1404—570]

Q. On the "Celtic Chief" you didn't use a donkey-engine, but only the capstan and windlass?

A. Windlass.

Q. That was operated by man power? A. Yes.

Q. Now, you said that there was a German cruiser, and you thought that German cruiser was the "Ar-

(Testimony of Richard Clarke.)

cona" that had a line on the "Celtic Chief"?

A. Yes.

Q. Why do you say it was the "Arcona"? Why do you say it was a German cruiser, not the "Arcona"? A. They look like.

Q. Isn't it the fact, Mr. Clarke, that it was a British boat and not a man-of-war? Isn't that the fact?

A. No, it was a man-of-war.

Q. Why do you say it was a man-of-war?

A. I told you I don't know which boat it is, German or American.

Q. You don't know. A. No.

Q. Did you say anything on direct testimony about it's being an American boat?

A. I said it's a German; that's what I said.

Q. Now, you say you don't know whether it was German or not. A. I seen a cruiser.

Q. It might be a French cruiser?

A. It might be French.

Q. The fellows told you it was German?

A. They said it was a cruiser.

Q. Did they say German? A. I don't know.

Q. Why did you say, in answer to Mr. Magoon, that it was German? A. I repeat that.

Q. Why didn't you, in response to Mr. Magoon's question, say that the fellows told you it was a German cruiser? A. No, sir.

Mr. MAGOON.—He never said a word about the fellows saying it was a German cruiser. [1405—571]

Mr. OLSON.—I'll withdraw my question. Why

(Testimony of Richard Clarke.)

did you say at all that she was a German cruiser.

Mr. MAGOON.—I object, it has been answered.

The COURT.—Overruled.

Q. Why did you say at all that she was a German cruiser?

A. Well, they are all alike and I didn't take notice.

Q. She might have been an American?

A. She might have been an American or German. They all got lead color.

Q. Why did you say that you thought she was not the "Arcona"?

A. Well, the "Arcona" was little larger than her.

Q. But it was not the "Arcona"?

A. I call it German boat.

Q. She was not the "Arcona" then? Can't you answer? A. I think it wasn't the "Arcona."

Q. Why did you say on direct testimony that it was the "Arcona"? A. What's that.

Q. Why did you say on direct testimony that it was the "Arcona" when you now say that it wasn't the "Arcona"? A. I spoke of that two times.

Q. In other words, you didn't mean to say it was?

A. It was a man-of-war. I don't know it was a German or a French one.

Q. Or some other kind of cruiser?

A. That's a cruiser.

Q. Then the *the* time the "Logan" came off?

A. The "Logan" didn't come off until they had put the anchor out on the stern.

Q. You testified this morning, Mr. Clarke, from your book there showing the time, wages paid to these men. Now, what men were those that you paid off in that way.

(Testimony of Richard Clarke.)

Mr. MAGOON.—He didn't say he paid them off.

A. Paid off the labor? [1406—572]

Q. You were present while they were paid off?

A. Yes.

Q. What men were they?

A. All these men except Wiesbarth.

Q. All of the men that the Miller Salvage had out there? They were all the working men on board the "Celtic Chief" that Miller had out there except Weisbarth? A. Weisbarth and three Japs.

Q. Were they out aboard there on the "Celtic Chief"—is that right? A. That was all.

Q. Did Tom Mason have some of these men under his charge? Was he the boss of some of them?

A. I supplied some men for them.

Q. Now, did you supply him when you were hired on Monday? A. He was hired by Miller.

Q. When? A. Hired on Monday.

Q. When were you hired?

A. When I saw them down there I keep down there.

Q. Then you were hired after that?

A. He was on board the "Celtic Chief" with the rest of the men so I gave him some men.

Q. You brought out how many men with you originally? A. Somewhere around sixty men.

Q. And you gave him part of yours so that the two of you had thirty men a piece?

A. I had little more.

Q. About thirty-five? A. Some more.

Q. You divided them so you were the boss of part and he was the boss of part? A. He was boss.

(Testimony of Richard Clarke.)

Q. You were already out there?

A. I went out there first.

Q. And he came afterwards?

A. He came afterwards.

Q. And he was put in charge of about thirty of your men and you remained in charge of about thirty-five? A. Yes. [1407—573]

Q. Now, Mr. Clarke, did these men work in shifts?

A. Sir?

Q. Did they work in shifts, these men?

A. On the ship?

Q. In shifts? A. Shifts?

Q. Yes, some of the men working part of the time?

A. We worked all day that day, worked all night. We came ashore and we picked up some more.

Q. But this testimony that you gave at the time shows how much these men worked, shows how much they did and how much everybody did each day?

A. How much everybody did.

Q. Part of these men worked under you and Tom Mason—that's right? A. That's right.

Q. Now, on Monday you testified that there were thirty-one men working who worked three-quarters of a day? A. Three-quarters of a day.

Q. They came out rather late on Monday morning; isn't that right?

Mr. WARREN.—Let the record show that the witness refers to a book.

A. *Forty-ve* men, three-quarters of a day.

Q. How many men were there on Tuesday? How many men were there working on Wednesday?

A. Well, I got the book there. (Indicating book

(Testimony of Richard Clarke.)
in Judge Stanley's hand.)

Q. You mean that this morning you made a mistake when you said thirty-one?

A. I said thirty-one, eleven hours' overtime.

Q. There were twenty-five men, eleven hours' overtime. You made a mistake this morning?

A. I think in counting. I was in a hurry counting up and down up and down three or four pages. You fellows in a hurry.

Q. That's true of some of the rest of your testimony?

Mr. MAGOON.—I object. [1408—574]

A. What is that?

Mr. MAGOON.—Wait a moment. I object—

The COURT.—Objection overruled.

Mr. OLSON.—Answer the question. Is that true of some of the rest of your testimony also, that you were in too much of a hurry?

A. I was in a hurry this morning in taking up the testimony.

Q. How about the rest of your testimony in other respects? Take the "Arcona." A. I was—

Q. I'll put the question in this way. You say that you were too much hurried when you testified from the book?

A. I was in a hurry that time. You asked me how many men I had.

Q. Now, I ask you, Mr. Mason, Mr. Clarke, were you also a little bit hurried when you were testifying about some of the other things, like the "Arcona"?

A. No, sir.

Q. What you said there you considered very well

(Testimony of Richard Clarke.)

and knew exactly what you were saying. Now, where were you on Tuesday? A. Tuesday?

Q. Tuesday? A. I was ashore discharging.

Q. What time did you go ashore from the "Celtic Chief" that morning?

A. When we left that night we went in.

Q. Monday night?

A. Monday night? Morning.

Q. Morning, somewhere four or five o'clock.

Q. Between Monday and Tuesday?

A. Between Monday and Tuesday.

Q. When did you go back to the "Celtic Chief" again? A. In the afternoon.

Q. About five or six? A. About five or six.

Q. When you came out with the "Makee"?

A. Yes. [1409—575]

Q. You hadn't been out there at all on Tuesday?

A. No.

Q. What were you doing on Monday?

A. Discharging cargo. Helping the Miller Salvage Co. to discharge freight from the "Celtic Chief" into the Miller boats like the "Concord."

Q. Kaimiloa" and "Makee"?

A. "Kaimiloa" and "Makee."

Q. I think you said on direct testimony that you were out there when the "Mauna Kea" gave that jump forward and broke her lines.

A. That's Wednesday morning.

Q. And you saw that, did you? Did she have her line slack and then she went forward suddenly full speed and broke her line? A. Give a jump.

Q. Was she trying to jerk the "Celtic Chief" off?

(Testimony of Richard Clarke.)

A. Yes.

Q. About what time of day was that?

A. In the morning.

Q. Ten or eleven o'clock?

A. Very earlier than that.

Q. Nine or ten o'clock?

A. Somewhere like that.

Q. Was that about the time that you were beginning to get the tackle rigged up?

A. I was taking in the slack of those tackle, rigging everything.

Q. Had the tackle been pretty well fixed up on the "Celtic Chief" before that time?

A. Before she made that jerk?

Q. Yes. A. No, I haven't got no idea about it.

Q. It was about the time you were rigging it up?

A. About the time I was rigging it up.

Q. You were on the "Celtic Chief"? A. Yes.

Q. Did you notice where or not the line when it broke flew back to the "Celtic Chief"? Did the end of the "Arcona's" line swing back on the "Celtic Chief"?

A. Swung on the side. [1410—576]

Q. Didn't come on deck?

A. It swung like this. I sing out, "Look out for her, boys."

Q. Do you know how large a line that was?

A. No, sir.

Q. Was it a manilla hawser?

A. I haven't got no idea about that.

Q. Was it a steel hawser? A. It's rope.

Q. You don't know whether it was steel or man-

(Testimony of Richard Clarke.)

illa? A. It's rope.

Q. Do you know whether there were some men on board of the "Celtic Chief" rigging the tackle in shape? A. What tackle?

Q. The Miller Salvage Co.'s tackle, anchor tackle.

A. I had men working.

Q. They were working on that when the "Mauna Kea" gave the jerk?

A. When the "Mauna Kea" gave the jerk.

Q. Was Tom Mason there helping? A. Yes.

Q. Do you know whether or not the "Arcona" had came out when the "Mauna Kea" gave this jerk?

A. I wasn't sure they hadn't come that time.

Q. It was the same day that the "Arcona" came out? A. Yes, sir.

Q. Was there some slack in the water before the "Mauna Kea" started to go ahead, gave this jerk, or did she back up and got ahead?

A. Only what I saw the boys says, "She is going to make a jerk."

Q. Did the line come out of the water?

A. Come out of the water and carried away.

Q. The Miller Salve Co. wasn't doing any discharging of cargo that morning, was it?

A. Not that morning.

Q. They were all through with what they had to do in the way of discharging cargo? [1411—577]

A. Because the Inter-Island was blocking the way.

Q. They couldn't get in there?

A. Can't get in there.

Q. Now, Mr. Clarke, don't you know it's the fact that the "Mauna Kea" wasn't there at all that morn-

(Testimony of Richard Clarke.)

ing? A. She was out there.

Q. Don't you know that the "Mauna Kea" left on Tuesday morning to go on her regular Inter-Island trip? A. Well, she was there in the morning.

Q. Wednesday morning?

A. Either Wednesday morning or Tuesday morning. I know she was out there that morning.

Q. But you weren't out there at all on Tuesday morning after four or five o'clock in the morning?

A. We left there about four or five o'clock.

Q. So that if the "Mauna Kea" broke her line Tuesday morning between seven and eight o'clock you were not out there?

A. Tuesday morning I wasn't out there.

Q. Then it must have been the Wednesday morning that you saw the "Mauna Kea" break her line?

A. Would be Wednesday.

Q. Do you know it was Wednesday?

A. When I go out there I saw those lines were lying on the side and the bitt was broken and I asked the fellows how they done it.

Q. Didn't you say you saw the line fall back to the port side? A. When the rope broke.

Q. You saw that? A. Yes.

Q. You saw the "Mauna Kea" give this jerk?

A. Yes.

Q. And you were rigging tackle.

A. Tom Mason was the one.

Q. You were there? A. I was on the poop.

Q. And that was Wednesday?

A. That was Wednesday.

Q. Don't you know it's the fact that the "Mauna

(Testimony of Richard Clarke.)

Kea" wasn't out [1412—578] there Wednesday morning? A. She was out there.

Q. She was?

A. She was out there and carried away her line.

Q. If it was a fact that she left on Tuesday morning and went on her regular trip would you still say that she was there while you were rigging your tackles.

A. I was looking my work when I heard it pop.

Q. You saw it, didn't you?

A. I heard a noise—pop.

Q. And you saw it?

A. When I heard that noise I looked around.

Q. And you saw the line going?

A. The line is gone.

Q. You saw the broken end of the line?

A. You see the line falling on the port side.

Q. And you know that that was on Wednesday?

A. Because I went on board on Wednesday and I saw the bitt was all broken.

Q. It was the time that you were rigging the tackle for the Hackfeld's anchor?

A. The tackle was rigged by Mason and Weisbarth.

Q. And then it was that all this happened?

A. Yes.

Q. And if the other witnesses in this case say that the "Mauna Kea" broke her line before ten o'clock on Tuesday morning and that she left Honolulu and went off on her regular trip on Tuesday morning, before Wednesday, then your testimony is not right and this is correct?

A. When I got out there I saw the line was on one side.

(Testimony of Richard Clarke.)

Q. Can't you answer my question?

A. Ain't I answering your question?

Q. I'm asking if other witnesses in this case testified that the "Mauna Kea" left Honolulu on Tuesday morning on her regular Inter-Island trip going over to Maui and Hilo, then they are not telling the truth?
[1413—579]

A. I don't know. They might be telling the truth.

Q. Then how could she be at the "Celtic Chief" when you fixed your tackle?

A. I was on board the "Celtic Chief" while the other two men were fixing it because I had to straight that hawser.

Q. And that's when the "Mauna Kea" broke her line?
A. I could hear talking about.

Q. So you didn't see the line broken?

A. I heard.

Q. Did you hear the line break?

A. I heard pop.

Q. Did you see the "Mauna Kea" going before a broken line came over on the port side?

A. They flew—

Q. Did you see that? Did you see the line of the "Mauna Kea" after it was broken and went on the port side?
A. I didn't look sharp on the line.

Q. You didn't see it at all?

A. I heard the noise.

Q. Did you see it?
A. I didn't see it.

Q. So you don't know?
A. I heard it crack.

Q. Do you know whether or not the "Mauna Kea" broke her line?

A. Everybody sing out, "The rope is gone."

(Testimony of Richard Clarke.)

Q. Do you know of your own knowledge from what you saw, whether or not the "Mauna Kea" broke her line? Did you see the "Mauna Kea" or do you know whether or not the "Mauna Kea" broke her line of your own knowledge from what you saw or observed? Why do you take so long to answer my question. Can't you answer it?

A. When any boat moving, jerking, it bound to pull away.

Q. I'm asking you whether or not you know, yourself, that the "Mauna Kea" gave this jerk and broke her line? A. I didn't take notice to watch her.

Q. You don't know anything about it, as a matter of fact? [1414—580]

A. I don't know nothing about it because I was taking care of my line.

Q. Why did you say on direct testimony that the "Mauna Kea" did then?

A. I knew it was pulling out there on the morning.

Q. You do know that?

A. That was on Monday.

Q. When were you rigging up this anchor tackle?

A. Monday I was discharging, Tuesday I was ashore, Wednesday I went up on board.

Q. And it was Wednesday morning that the "Mauna Kea" parted her line?

A. What I understand.

Q. Do you know?

A. I didn't pay no attention to these Inter-Island boats.

Q. So you don't know whether or not the "Mauna Kea" parted her line?

(Testimony of Richard Clarke.)

A. I heard those fellow talk.

Q. You don't know of your own knowledge?

A. I see a piece of line laying on deck.

Mr. WARREN.—I move to strike the testimony of the witness with respect to the "Mauna Kea" and her line.

Mr. WARREN.—I withdraw my motion.

Q. Now then, Mr. Clarke, you said, I think on direct testimony, Mr. Clarke, that if a steamer pulls ahead full speed, she's bound to break her line?

A. Yes.

Q. You mean to say that no line is strong enough to keep from breaking?

A. Unless she have a solid line.

Q. Didn't these steamers have good, solid lines?

A. Whenever you take and jerk on a line they bound to give way.

Q. So it wasn't a good strong line?

A. The line must be used otherwise wouldn't carry away.

Q. Then you think that the "Arcona" couldn't have been pull very hard because the line wasn't hurt.

[1415—581] A. His line parted.

Q. I mean after she put both her lines aboard.

A. They was pulling waiting for the high tide.

Q. Did the "Mikahala" pull at all?

A. They was hanging on to it.

Q. Didn't you say that the "Mikahala" was pulling full speed? A. No, sir.

Q. Didn't you say that the "Mikahala" was pulling full speed a part of the time? A. No, sir.

Q. Didn't you say that she was pulling at full

(Testimony of Richard Clarke.)

speed at one time and they went on down to slow speed? Didn't you say that?

A. Just lightened up.

Q. They were pulling full speed?

A. In the morning.

Q. Why didn't they break the line.

A. They ain't break anything.

Q. Then you don't mean that a line will break every time? A. An old line carry away.

Q. Now, Tuesday night, when you came out there with the Miller Salvage Co. anchor, where did you drop that anchor? A. The main anchor?

Q. The big anchor?

A. We didn't drop that night.

Q. You kept it aboard the "Makee" all night?

A. Yes.

Q. You dropped the "Makee's" own anchor?

A. Small anchor.

Q. Now, why didn't you drop that anchor in the right place Tuesday night?

A. Can't get aboard of her.

Q. Can't get aboard of what?

A. Of the "Celtic Chief."

Q. You didn't want to put the anchor on the "Celtic Chief" A. Put in the end of our line.

Q. You didn't go ahead and put the anchor in position? A. No.

Q. Was there anything to interfere with your putting the anchor in position that night? [1416—582]

A. I don't know because it's up to the captain.

Q. It wasn't sundown? A. What is that?

Q. The sun wasn't down when you came out?

(Testimony of Richard Clarke.)

A. It was about six o'clock.

Q. The sun wasn't down?

A. It was down to the edge of the water.

Q. Just about ready to go down?

A. Something like that.

Q. Now, then, Mr. Clarke, when you put that freight on the Hackfeld wharf on Tuesday, when that anchor was on board the "James Makee"?

A. Yes.

Q. Where did you put that anchor?

A. Right on top the main hatch of the "James Makee."

Q. And you kept it there until Wednesday morning when you put it in position and laid it?

A. Yes.

Q. Had it been shackled to the cable so that it was in shape for pulling, on Tuesday afternoon?

A. The wire cable was shackled on to the anchor.

Q. It was? On the deck of the "James Makee"?

A. On the deck of the "James Makee."

Q. When was that done?

A. On our way going out.

Q. Tuesday afternoon?

A. Tuesday afternoon.

Q. Now, who had charge of dropping that anchor Wednesday morning? A. Weisbarth.

Q. You were also there? A. I was there.

Q. Who took up the "James Mackee's" anchor that morning? Who hove that int?

A. I think the boys.

Q. You saw that done, didn't you?

A. I saw them heaving the anchor.

(Testimony of Richard Clarke.)

Q. And your and four or five other men brought the anchor cable aboard the "Celtic Chief" on Wednesday morning? A. Yes. [1417—583]

Q. Did you help to lay the anchor?

A. I hoist here and put her in the water.

Q. You helped to hoist her?

A. Stood on the ———.

Q. That was on the main hatch of the "James Makee"? A. Yes.

Q. You were on the "James Makee" all of Tuesday night? A. Slept there.

Q. You didn't go aboard the "Celtic Chief" on Tuesday night? A. No, sir.

Q. Didn't try to? A. No, sir.

Q. Did anybody try to go aboard that night?

A. I don't know nothing about it.

Q. What time did you go to sleep that night?

A. I went to bed about quarter to eight.

Q. What time did you get up in the morning?

A. I got up about five o'clock.

Q. Not yet daylight? A. No, sir.

Q. Where was the big anchor?

A. The big anchor was on the "James Makee."

Q. On the main hatch? A. Main hatch.

Q. Right where it had been? Where you had put it? A. Yes.

Q. Hadn't been moved from that time? (Nods head.)

Did you get the answer, Mr. Reporter? He said it hadn't been moved.

Q. How did they lay that anchor? Did they pick it up with a steam winch and drop it overboard?

(Testimony of Richard Clarke.)

A. They hoisted with a steam winch.

Q. And dropped it over the side of the "James Makee"?

A. Yes, and we put it on the rail and we tied the rope down, and when we got there Weisbarth cuts that rope and drops the anchor in the water and we went aboard the "Celtic Chief." [1418—584]

Q. Who was in this boat that you went in to put the line aboard the "Celtic Chief" that Wednesday morning?

A. Wednesday morning? I know I had four men with me.

Q. Was Tom Mason with you?

A. Tom Mason was on the second boat.

Q. Did you go aboard the "Celtic Chief" before Tom Mason came?

A. I go one boat, he came in another boat.

Q. Tom Mason was under your direction? You were the boss in charge of everything?

A. I was in charge of my gang.

Q. Wasn't he under your orders?

A. He was under my orders once but he understands more than me about splicing.

Q. Now, you had, when the tackles were rigged up and were ready for being hove in, you put sixteen men on the capstan? A. On the capstan.

Q. And you kept those sixteen men working there until they got tired?

A. Split them up. They work a little while then another one jump in.

Q. This capstan, Mr. Clarke, is a sort of affair that stands up from the deck. It's round?

(Testimony of Richard Clarke.)

A. Round.

Q. It works on a pivot, works around?

A. Works around and there are holes there and you put poles in.

Q. How long are those poles?

A. Pretty long poles.

Q. Ten feet? A. Less than that.

Q. About six feet? A. Six or eight feet.

Q. On either side? A. Sticking out.

Q. There would be about eight men on there?

A. Two men to a bar.

Q. How many bars were there? [1419—585]

A. Eight bars.

Q. Now, you were in charge there, weren't you, from Wednesday morning or Wednesday noon when the tackles were finally rigged into position until the "Celtic Chief" came off? A. Yes, sir.

Q. You were right there in charge?

A. Have to be.

Q. And didn't do any sleeping that night and were right there on the job all night?

A. On the job all night.

Q. Now, then, Mr. Clarke, you had these sixteen men working on this the whole time?

A. Supper for half hour or quarter of an hour, extra man there, when one fall out another one jump in.

Q. Tom Mason was looking after the tackle?

A. He was on the tackles.

Q. You were looking after the capstan?

A. I was all around.

Q. You had direct charge of the capstan?

(Testimony of Richard Clarke.)

A. I had some men to watch it.

Q. You went around there and took a look every fifteen minutes?

A. Every ten or fifteen minutes I'm forward and aft.

Q. Did these sixteen men work in shifts that you used sixteen men only half an hour and then put on others?

A. I had less than thirty-two men altogether.

Q. And you would work about half of them for a part of the time and then the other half? A. Yes.

Q. How long did you work each shift on that capstan? A. About half an hour.

Q. Then you'd take them off?

A. Let them jump in. They know their chance.

Q. But there wasn't bars for more than sixteen men? A. Oh, yes, lots of holes. [1420—586]

Q. How many bars did you have on it?

A. I only had eight.

Q. How many bars did you have on that night, Wednesday night, from dark until the "Celtic Chief" came off? A. The same eight.

Q. And you had two men to the bar? A. Yes.

Q. When you speak of a bar you mean—

A. The stick that goes—

Q. Sticking out from the capstan?

A. From the capstan.

Q. Wouldn't one bar make two? One bar right through.

A. I'd stick the end of a bar into that.

Q. Then they hove on it? A. Hove on it.

Q. And you had eight of those?

(Testimony of Richard Clarke.)

A. Eight of them.

Q. Now, then, Mr. Clarke, a man couldn't do much good if he got up close to the capstan and pulled on those bars? They'd have to be out toward the end of the bar?

A. About three feet from the capstan you could work around.

Q. How long were these bars?

A. Six or eight feet.

Q. One man would be three or four feet and the other at the end? A. At the end.

Q. And that's the way you worked it? A. Yes.

Q. What were Mason's men doing, his gang of thirty men?

A. His men were taking care of the block.

Q. What would keep them busy?

A. To watch if them ropes run near.

Q. Was there anyone working on those tackles?

A. No, sometime they working on it.

Q. As a matter of fact, five or six men could have taken [1421—587] care of those tackles?

A. Five or six men?

Q. That was all that was necessary? A. Yes.

Q. It wasn't nearly as hard work as heaving on this capstan?

A. They was taking turns on the capstan.

Q. Most of the time?

A. Not most of the time. They heaved sometime taut when they jump in.

Q. When was it that you first noticed that the "Celtic Chief" began to come?

A. I was standing amidship of the ship.

(Testimony of Richard Clarke.)

Q. What time was it?

A. Between eight and nine o'clock, I guess.

Q. What did you notice?

A. Well, I took a light sight.

Q. Did you feel the ship give a jump?

A. After I missed my light then I feel the jump.

Q. Did you go and tell Captain Miller about this?

A. I went to tell him.

Q. Where was he? A. He was down the cabin.

Q. Who else was down there?

A. Miller, Macaulay, the captain of the ship and I think, Haglund.

Q. And when was that when he told you, "Keep your mouth shut"?

A. Yes, he came out and said, "Shut up, Dick." I told the boys, "Shut up."

Q. What did you understand that to mean?

A. I knows he want those fellows down the cabin keep chewing the rag and pull her off.

Q. He didn't want Captain Henry and Captain Macaulay to know anything about it?

A. I think so. That's why he shut me down, told me keep quiet. He says, "Shut up."

Q. Did you shut up?

A. I did so. I told the boys keep quiet. [1422—588]

Q. Tell Tom Mason to keep quiet?

A. Every one of them.

Q. Did you tell everybody?

A. Weisbarth, everybody.

Q. Did you tell Tom Mason, "Keep quiet"?

A. I sing out.

(Testimony of Richard Clarke.)

Q. Did you tell them Miller wanted them to keep quiet?

A. I never let them know. I didn't tell Mason; he must have hear.

Q. Where was Mason when you heard this jump?

A. He was in the midship of the ship watching this tackle.

Q. Were you there about the same place?

A. I was passing across to the poop.

Q. Did you say anything to Mason?

A. Only I said to Mason, "I hope the 'Celtic Chief' come off."

Q. What did he say?

A. He said, told me he want to see it.

Q. He notice the jump? A. Yes.

Q. Did he say anything? A. Simply laughed.

Q. That was about an hour before she actually came off the reef, was it? A. I can't tell.

Q. I think you said, in response to Mr. Magoon, it took about an hour? A. Might be little more.

Q. You said she came off about eleven or twelve o'clock? A. Between ten and twelve.

Q. And the first movement was between eight and ten? A. Yes.

Q. Now, what is your best judgment and recollection? Isn't it the fact that you felt the first jump about two or three hours before the "Celtic Chief" actually came off? A. Two or three hours?

Q. Yes, two or three hours before that. Wasn't it quite a long time? Two or three hours? [1423—589] A. That first jump between eight and ten?

Q. Wasn't that two or three hours before she

(Testimony of Richard Clarke.)

finally came off?

A. About three hours when she came off?

Q. That's your best judgment now?

A. That is what I understand.

Q. That's what you mean to say?

A. Yes, between eight and twelve.

Q. Then you think it was very shortly after eight o'clock that the vessel made this jump and about twelve when she came off the reef?

A. About right.

Q. That's your best judgment and recollection now when she came off? A. Yes.

Q. What did you and Mason do after that first jump when Miller told you to shut up?

A. We fleet up the tackle.

Q. Did the tackles drop down on the deck then?

A. Yes.

Q. Loose? A. Loose.

Q. And did you help Mason do that?

A. Everyone. I got the ten boys on the bar with the capstan and all the rest of the boys down on the deck fleet in the tackles.

Q. You kept ten men on the bars to hold that taut?

A. I kept ten men forward to pull that slack of the rope.

Q. You kept pulling that in? Do you know what time it was dark that night? About what time it became dark? It was December.

A. I don't know what time.

Q. It was pretty well dark at seven o'clock?

A. Pretty dark.

Q. And about an hour or so later was when you

(Testimony of Richard Clarke.)

felt this first jump?

A. About eight or half-past eight.

Q. Now, you were the man that kept general charge, had general charge of the whole thing, the Miller wire and anything in general. Isn't that right? [1424—590]

A. I was taking care of part of it.

Q. Weren't you in charge of the whole business?

A. There was three of us.

Q. Who were they?

A. Weisbarth, Tom Mason, and myself.

Q. Tom Mason knew more than you about the rigging and splicing?

A. He know more than I do because I never been in the sea.

Q. You left him in charge of that? A. Yes.

Q. What did you leave Weisbarth in charge of?

A. What's that?

Q. What did you leave Weisbarth in charge of?

A. Those two were taking care of the gang.

Q. And you were taking care of the whole business? A. I was half and half.

Q. You left Mason in charge of what he could best do and you left Weisbarth in charge of what he could best do, but you were in charge of the whole thing?

A. Yes.

Q. You were the man that Miller left to go around and see that the men were working? A. Yes.

Q. Did you have any talk with Mason that night?

A. Passed by him.

Q. Did you have any talk with him?

A. Very little.

(Testimony of Richard Clarke.)

Q. Once in a while? A. Once in a while.

Q. He was pretty busy with the tackles all the time? A. Yes.

Q. Tending to his business?

A. Tend to his work.

Q. He didn't have anything to do with going up on the poop and around up forward?

A. Well, I didn't pay any attention about him going up on the poop but I know I [1425—591] go up on the poop and Ekau was watching the rope.

Q. But Mason wasn't up on the poop?

A. I know I was.

Q. You never saw him go up there?

A. I never see him.

Q. He didn't have anything to do on the poop?

A. He might take a walk up there.

Q. But the tackles were all down on the main deck?

A. Yes.

Q. And if he took a walk up there it some simply because he wanted to take a walk?

A. Take a little rest.

Q. Did you go and have a little talk with Weisbarth and Mason when Miller told you to shut up, not to say anything?

A. After we got it fleet up again I came alongside with Weisbarth and says, "Now, we're beginning to move."

Q. Did you say anything to Mason?

A. I don't think. I came out and slapped him on the back.

Q. Tell him that Miller didn't want these other fellows to have anything to do with it?

(Testimony of Richard Clarke.)

A. I don't know anything about that.

Q. What did you tell Mason?

A. Told Mason, "We're going to make some money."

Q. You told them all to shut up and not say anything? A. Yes.

Q. Now, Mr. Clarke, Tuesday night, how far was it from the "Celtic Chief" to the anchor of the "James Makee" and the "Mokolii"?

A. That was lying on the port side; can't tell how far distance.

Q. Well, about a quarter of a mile?

A. Less than that.

Q. Couple hundred yards?

A. Couple hundred yards.

Q. About six hundred feet away?

A. Something like that. [1426—592]

Q. Now, the "Helene" and the "Likelike" were pulling off on the port side of the "Celtic Chief" that night, Tuesday evening?

A. They was out in the evening.

Q. And they between that anchor and the "Celtic Chief"? A. Was further down this side.

Q. You were further out from the "Celtic Chief" than they were? You were farther out to sea than they were?

A. I know we anchored right near the "Helene," that's all.

Q. Further out to sea?

A. Little way out to sea.

Q. So that when you said that these various steamers like the "Helene" and the "Likelike" and

(Testimony of Richard Clarke.)

the "Mikahala" had lines out, about as long as the "Celtic Chief" herself, do you mean to say that they had about two hundred and fifty or three hundred feet of line? A. I don't know.

Q. What in your judgment? A hundred yards?

A. Maybe nearer. Hundred or less than that.

Q. Couple hundred feet?

A. About couple hundred feet.

Q. And you think that the anchor was laid out about the same distance? A. What's that?

Q. The anchor was laid out about the same distance?

A. We got the anchor between the "Helene" and the "Mikahala."

Q. And about the same distance away from the "Celtic Chief," couple hundred feet?

A. I guess about a couple hundred feet.

Q. So that from the anchor to the "Celtic Chief" would be about a couple hundred feet?

A. I have no idea of measuring how far they are and how far the anchor is.

Q. About four times as long as this room?

A. Five times.

Q. About two hundred and fifty feet?

A. I think Miller ought to know.

Q. I'm asking you.

A. I don't know how many fathoms of wire.

[1427—593]

Q. About 250 feet?

Mr. MAGOON.—I object.

The COURT.—I allow the question.

Q. Your best judgment is that it was about 250?

(Testimony of Richard Clarke.)

A. I ain't quite sure of that. 200 or less.

Q. 250 feet or less?

A. Or less or more, can't tell.

Q. Was it 2,000 feet?

Mr. WEAVER.—I object. I interpose an objection here after the witness has said he has no idea.

The COURT.—Objection overruled.

Q. Was it 2,000 feet away? A. It ain't 2,000.

Q. You are sure of that, aren't you? And you are sure that you're sure of that also?

A. I ain't quite sure because I tell you I don't know anything about it.

Q. You saw where the anchor was laid that night?

A. I saw where they laid the anchor.

Q. You are pretty sure that wasn't a half mile from the "Celtic Chief," aren't you?

A. Wasn't half a mile.

Q. You know it was also further away than twenty-five feet?

A. Why, it's farther than a hundred.

Q. As far as you can recall it was about 250 feet? Isn't that the best of your judgment, that it was about 250 feet? A. 200 or less.

Q. Did you go up on the poop when the "Celtic Chief" came off the reef?

A. I went up there to sing out to Miller when that first jerk.

Q. The first time? A. The first time.

Q. That was two or three hours before she finally came off?

A. She came off I wasn't on the poop. [1428—594]

(Testimony of Richard Clarke.)

Q. The fact is that you didn't go up on the poop again after that first time?

A. When she made the first jump.

Q. Then you went astern? A. I went astern.

Q. And then Captain Miller told you to keep still then you went back again? A. Went back again.

Q. You stayed there until he came up?

A. Walked fore and aft.

Q. You didn't go on the poop again? You didn't go on the poop at all during the time Miller told you to shut up until she came off the reef? A. No.

Q. Now, you drew a diagram here, Mr. Clarke, of the position of the "Celtic Chief" and also the positions of the various Inter-Island steamers, the "Intrepid" and the "Arcona," as well as the Miller anchor. Didn't you draw a chart of it?

A. Yes, I drew a chart.

Q. That's a pretty accurate chart of what you saw?

A. Sir?

Q. That represents pretty well your present recollection of what the positions were?

A. That's what I done.

Q. That is as you now remember it? A. Yes.

Q. Isn't it the fact, Mr. Clarke, that you testified on direct examination that the "Arcona" took a position over the Miller anchor?

A. She was over the Miller anchor.

Q. Wasn't the Miller anchor laid astern of the "Celtic Chief"? A. She was astern.

Q. So that the "Arcona" was astern?

A. Laying on our anchor like this. Here's our anchor here and she was a little bit across that.

(Testimony of Richard Clarke.)

Q. What position did she have when she broke her line on Wednesday afternoon?

A. Who—the "Arcona"? [1429—595]

Q. "Arcona."

A. When I hear the line carry away it was ahead.

Q. What position did she have at that time?
Right astern? A. Right astern.

Q. And that was the position she had afterwards, the same position?

A. What I saw when I came back saw her lying this way.

Q. When was that? A. That night.

Q. What time?

A. Late, between ten and eleven.

Q. How could you see the position in which the "Arcona" was lying? A. The electric shows.

Q. And the moon was shining?

A. Little moon shining.

Q. And the stars were shining?

A. I don't know about the stars.

Q. It was a clear, moonlight night, you could see perfectly well what all those vessels were doing, couldn't you? A. Yes.

Q. Now, as a matter of fact, the almanac shows the moon wasn't shining.

A. The light was shining.

Q. What about the moon?

A. The searchlight would be like the moon.

Q. I'm asking if the moon was shining?

A. The moon wasn't shining.

Q. Why did you say a few moments ago that the moon was shining?

(Testimony of Richard Clarke.)

A. The way I was talking about the lights.

Q. There was no moon? Why did you say the moon was shining?

A. I just give your words back.

Q. Wasn't the moon shining?

A. There was no moon that night.

Q. What if the almanac shows there was a moon?

A. *There was a moon.* [1430—596]

A. There was no moon.

Q. What if the almanac shows there was a moon?

A. What's almanac?

Q. Don't you know what the almanac is?

A. Oh, the calendar.

Q. What if the calendar shows the moon was shining?

A. If the moon was shining let her shine.

Q. As a matter of fact, you don't know whether the moon was shining?

A. There was no moon.

Q. Was it cloudy? A. Might be cloudy.

Q. What did you mean by saying a few moments ago that it was not cloudy and clear?

Mr. MAGOON.—He didn't say so.

Q. What did you mean by saying it was a clear, moonlit night? A. I thought you was joking.

Q. You thought I was joking? Did you joke in response to my other questions? A. No, sir.

Q. Were you joking when you said the "Arcona" was lying a little bit across the anchor of Miller?

A. No, sir.

Q. You meant business then?

A. Meant business.

(Testimony of Richard Clarke.)

Q. You saw the "Arcona's" lines, didn't you?

A. They was buried in the water.

Q. You could see that plain?

A. I could see plainly.

Q. The light of the "Arcona" was playing right on the stern of the vessel?

A. I could see them plainly.

Q. And she was not turning up any water astern at all? A. I have no idea of the stern.

Q. But you could see her lines in the water?

A. Lines in the water.

Q. You could see the lines? A. Yes.

Q. You could see where those lines came out of the water again up to the "Arcona"? They would come from the "Celtic [1431—597] Chief" down in the water and then come up to the "Arcona"? You could see that?

A. I saw where the end of the line goes in the water.

Q. From the "Arcona"?

A. From the "Celtic Chief."

Q. And where they came up to the "Arcona," you could see that? A. I see it.

Q. You could see where they were working?

A. They was working.

Q. You could see that?

A. Whenever they turn her.

Q. Now, then, Mr. Clarke, where were you when you saw this?

A. I was on the port side of the ship.

Q. Whereabouts?

A. On the after end of the poop.

(Testimony of Richard Clarke.)

Q. On the port side?

A. On the port side.

Q. Did you see the starboard rail?

A. Well, I'm all around.

Q. You could see it from the deck?

A. The rail goes, you could see the rail from the poop deck.

Q. You could see how it went right down into the water on both sides? A. On both sides.

Q. Isn't it a fact, Mr. Clarke, that there were four and a half foot bulwarks on the sides of the main deck? A. Bulwarks?

Q. Sides of the vessel.

A. Sides of the vessel comes right up to my chest.

Q. About four and a half or five feet?

A. Something like that.

Q. Then it comes back to the poop and rises seven or eight feet?

A. To the poop deck is about ten feet.

Q. And the sides of the vessel come right to the poop? A. Yes. [1432—598]

Q. You can't see anything?

A. No, you saw the sides.

Q. Now, then, will you explain how you were able to see both those rails from the port side of the ship?

A. I go on the port side, peep on the side there a little while, then go over to the starboard side.

Q. You did that, did you? A. Yes.

Q. Why did you say a few minutes ago that you could see forward?

A. When I got on the top of the poop.

Q. Didn't I ask you a few minutes ago if you

(Testimony of Richard Clarke.)

couldn't see those?

A. You could see the two lines where the "Arcona" is.

Q. Could you see it from the main deck?

A. On the starboard side.

Q. Didn't you say a few minutes ago you could see it anywhere? A. Yes.

Q. Did you mean that?

A. I mean go right across the ship.

Q. Could you see them forward?

A. On the main deck.

Q. Isn't it the fact, Mr. Clarke, that the starboard chock is at the break of the poop.

A. There is two chock there, one on the port, one on the starboard.

Q. And that's where the lines came through.

A. Yes.

Q. How do you explain that you could see them?

A. From one side to the other.

Q. You would have to look at the side?

A. Have to go from one side to the other side to look at it.

Q. Didn't you testify this morning that you were on the poop watching what was going on outside?

A. Every spare time I got I look over the side.
[1433—599]

Q. Why did you testify this morning that you didn't know what was going on outside of the vessel?

A. I was working fore and aft on the main deck.

Q. Why did you say you were too busy?

A. I was looking outside after I got done there.

Q. Why did you say this morning that you were

(Testimony of Richard Clarke.)

too busy with your work on the deck to see what was going on outside of the vessel?

A. I was looking outside when that cable parted.

Q. Why didn't you say that this morning?

A. I didn't care much to look at the other boat.

Q. You were looking at the "Arcona"?

A. I was looking at the "Arcona." I thought she was going to pull them to pieces.

Q. Didn't you think that her lines were so small that she would break them?

A. I guess they are pretty good wire.

Q. But any rate you thought that she'd break her lines to pieces—that's what you said?

A. No, I thought it was going to break her in pieces.

Q. Break the lines? A. Break the ship.

Q. Which ship? A. "Celtic Chief."

Q. She was pulling so hard?

A. Afterwards he get his cable never pull any.

Q. Not that night?

A. I never see them pulling.

Q. You are willing to swear, are you, Mr. Clarke, that the "Arcona" from about six o'clock—

A. Six o'clock?

Q. On Wednesday afternoon until the "Celtic Chief" came off that night, you are willing to swear to the Judge that the "Arcona" wasn't doing any pulling? A. He pull until he part his cable.

Q. But from six o'clock Wednesday night until she came off, are you willing to swear that the "Arcona" didn't do any [1434—600] pulling?

A. I see her line buried in the water.

(Testimony of Richard Clarke.)

Q. Are you willing to swear that the "Arcona" wasn't doing any pulling from six o'clock Wednesday night until the "Celtic Chief" came off about twelve?

A. I ain't testing his wire. I can't tell you.

Q. You don't know?

A. I see his wire buried in the water.

Q. You saw that once or twice?

A. Once or twice—more than that.

Q. Or three times? A. Three or four.

Q. Isn't it a fact that you saw that early in the evening about seven or eight o'clock?

A. I test the cable.

Q. About six o'clock that night?

A. I don't know. Somewhere about like that.

Q. When was it that the "Arcona" first came out to the "Celtic Chief"? A. What's that?

Q. When was it that the "Arcona" came out to the "Celtic Chief" on Wednesday?

A. I have no idea.

Q. Weren't you out there?

A. I was out there.

Q. Were you busy?

A. I see her coming.

Q. When was it that the "Intrepid" cut her line and got away?

A. His line was chopped off in the afternoon.

Q. What time?

A. I don't know what time.

Q. Wasn't it about the time that you first got the Miller lines taut?

A. Got the lines out there and I saw the pilot coming there.

(Testimony of Richard Clarke.)

Q. And he cut the line?

A. Cut the line.

Q. And that was the time you got your line taut?
Shortly after the line was cut?

A. Shortly after the line was cut.

Q. And then didn't the "Arcona" take the "Intrepid's" [1435—601] position?

A. I didn't take no notice of that. I heard Captain Harry was raising hell on deck.

Q. Who's Captain Harry?

A. Captain of the tug.

Q. He was raising hell?

A. "Who the hell cut his line?"

Q. That was the captain of the "Intrepid"?

A. Harry ———.

Q. About what time?

A. I don't know what time I heard him raising hell.

Q. Isn't it a fact that was about noon on Wednesday?
A. Something like that.

Q. Don't you know that the "Arcona" came there and took the position of the "Intrepid" right away?

A. I don't know about this time.

Q. Well, the "Arcona" came in there?

A. She came in there.

Q. About the same time, just after the "Intrepid" got away; isn't that right?
A. Yes.

Q. Now, then, Mr. Clarke, the "Intrepid" only had one line on the "Celtic Chief"?

A. Who—the "Intrepid"?

Q. I mean the "Arcona." The "Arcona" put one wire line on board the "Celtic Chief," didn't she?

(Testimony of Richard Clarke.)

A. I think so.

Q. And she pulled that taut and broke it?

A. I heard her crack.

Q. What? A. I heard the wire part.

Q. Did you see it? A. I heard the noise.

Q. Did you see it? Did you see the line before it was broken? A. Yes.

Q. If the fact is that that line was broken about two o'clock in the afternoon, then is your testimony now correct that she broke it about noon? Why are you taking so long to answer me?

A. I was thinking over about that second one.

Q. It wasn't about midday?

A. I know they passed that [1436—602] line on afternoon.

Q. In the afternoon?

A. In the afternoon, I think.

Q. Before dark?

A. Before dark or after dark.

Q. As a matter of fact, you were so busy around the tackles on board the "Celtic Chief" that you don't know what was going on?

A. I don't pay any attention.

Q. And you didn't pay any attention to the "Arcona's" lines? You didn't look at them at all?

A. I saw them around there.

Q. Isn't it a fact that when the "Arcona" put both lines on board she moved around until she had the lines so that she had an even strain on both of them?

A. I don't have no idea of that.

Q. Didn't you see that?

A. I see two line only from the ship.

(Testimony of Richard Clarke.)

Q. Didn't she get an even strain on them?

A. I think it is equal, is even.

Q. Then she had an anchor straight ahead?

A. That's right.

Q. And that's the position she kept until the "Celtic Chief" came off?

A. She was lying that way.

Q. Can't you answer my question? Isn't it the fact, I'll withdraw my former question.

Mr. WEAVER.—Let's hear his answer.

Q. Now, I'll ask you, when you say that she was lying that way, don't you mean, Mr. Clarke, that she had an even strain on her two lines after she had broken her first line and laid her anchor out ahead, and then, having got in that position she stayed there until the "Celtic Chief" came off about eleven or twelve o'clock that night? Isn't that what you mean? A. She was lying all the time—

Q. Can't you answer my question?

Mr. MAGOON.—Why, don't you allow the witness to answer the [1437—603] question?

The COURT.—Did you want to say any more? In this last question, did you intend to say something more? A. No.

Q. Now, then, I want you to answer my question directly. Answer yes or no, if you can. Isn't it the fact that when she had gotten her strain as you have testified on those two lines that she had, and she had placed her anchor out ahead, she kept that position, after she had gotten that strain, until the "Celtic Chief" came off about eleven or twelve o'clock that night?

(Testimony of Richard Clarke.)

Mr. WARREN.—I object to that question on the ground it assumes a fact that is not in evidence.

Mr. OLSON.—I withdraw the question in order to see that point. Didn't you testify that after she parted her line the first time, she put two lines aboard and got an even strain on the two? You testified to that, didn't you?

A. I seen her line was even.

Q. You saw that she had an even strain on them?

A. Even line.

Q. But she had an even strain on both of them?

A. I ain't sure of that because I never been on board that ship to tell it's even.

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Q. Do you know, Mr. Clark, how the "Arcona" parted her line? Whether it was by a steady pull or by a jerk? A. I haven't got no idea about it.

Q. You didn't see it? A. No.

Q. You didn't see the line part itself?

A. I didn't see him. He made a jerk. I didn't take notice of it, but I saw a piece of the line on deck there.

Q. Afterwards? A. After.

Q. And you don't know how it was broken at all.

A. No, I didn't pay no attention to it. [1438—604]

Q. You saw, however, that the "Arcona" had an anchor out ahead?

A. She might had an anchor. I didn't take notice of its bow.

Q. You didn't know whether she had an anchor ahead—you didn't notice?

(Testimony of Richard Clarke.)

A. I didn't take notice.

Q. As a matter of fact, you don't know what the "Arcona" was doing?

A. The "Arcona" was lying astern of the "Celtic Chief."

Q. Over the Miller Salvage Co. anchor?

A. Over the Miller Salvage anchor.

Q. What part of her was over the Miller Salvage Co. anchor?

A. The stern post right on top that Miller's anchor.

Q. Now, you made a diagram here, didn't you, of the situation out there showing the situation and location, the position of the "Celtic Chief," likewise the positions of the towing steamers including the "Arcona" and also the Miller Salvage Co. anchor. You drew a diagram of it? A. Yes, sir.

Q. And that is as nearly accurate as you can say?

A. That is the nearest I can say.

Q. Do you mean to say, then, do you mean to say that the "Arcona" was lying on the starboard quarter somewhat of the "Celtic Chief"?

A. On the starboard?

Q. Was she lying on the starboard quarter of the "Celtic Chief"?

A. I think she was lying on the port side.

Q. This way, right back astern of the "Celtic Chief"?

A. I didn't take no notice the way how she was lying.

Q. Do you mean on the right side or the left side?

A. I think it was on the port side.

Q. You said yesterday, I believe, that you didn't

(Testimony of Richard Clarke.)

know which was port and which was starboard. I want you to say now whether it was the right side or the left side of the "Celtic Chief"?

A. I think it was left side, port side.

Q. Now, in this drawing that you made here, this diagram [1439—605] you haven't marked very distinctly the "Arcona," the "Arcona's" line. Do you mean to say that that is a correct drawing of the position of the "Arcona"?

A. That's the closest I can give it.

Q. And its line?

A. I think that's the closest I can draw for you.

Q. How many lines did the "Arcona" have?

A. Two of them.

Q. You have not designated these lines on this diagram.

A. The first time she had one line, the second time two lines.

Q. All right. I'd like to have you add on this diagram the two lines of the "Arcona" and where they were to the "Celtic Chief." Show where they were on the "Celtic Chief."

A. I show you from the "Celtic Chief," from here, right in back of the stern of the ship.

Q. Draw the lines to the "Arcona."

A. The line came around this way.

Q. Where did they come to the "Celtic Chief"?

A. Around the "Celtic Chief."

Q. Where was the "Arcona"? A. Over here.

Q. Haven't you drawn the "Arcona" out this way?

A. Them two lines run to the deck.

Q. Can't you draw them over to the "Arcona"?

(Witness draws on diagram in evidence.)

(Testimony of Richard Clarke.)

Q. Now, then mark a little more distinctly the position of the "Arcona."

(Witness marks on diagram in evidence.)

Q. Just erase those two first lines that you drew at the side, the wrong ones, the ones that don't go to the "Arcona." Over here also. (Witness erases portion of diagram.)

Q. Now, then, now you've made the position of the "Arcona," haven't you, by the word "Miller."

A. Yes.

Q. That's the correct position? Put a cross right there where you've got the anchor. [1440—606]

(Witness marks on exhibit.)

Q. I'd like to have you mark on those two lines that you've drawn to the "Arcona," the figures 1 and 2.

(Witness marks on exhibit.)

Q. Then that shows the two lines, does it?

A. The two of them.

Q. The "Arcona's" search-light was playing pretty much of the time on Wednesday night, was it not? A. Yes, sir, pretty fair.

Q. You could see the lines of the "Arcona" very well, couldn't you? A. Yes.

Q. How does it come you don't know where they were attached to the "Celtic Chief"?

A. The lines?

Q. Yes.

A. I didn't pay any attention much. I'm all around working here and there looking on the side.

Q. You didn't pay any particular attention to those lines? A. No.

(Testimony of Richard Clarke.)

Q. And that's the real reason why you aren't able to say just where they were attached to the "Arcona"? A. That's right.

Q. You weren't concerning yourself with anything outside of your immediate business, namely, the tackles and the capstan?

A. I was tending my own work.

Q. That is tending to the cables; you weren't worrying about what the others did?

A. I wasn't working for the others.

Q. You don't know what the other boats were doing? A. I see them lying around.

Q. You don't know whether they were pulling or not?

A. Whether they were pulling or not pulling?

Q. You don't know? A. No.

Q. Now, you say that the "Celtic Chief" was a little [1441—607] off to the port side of the "Celtic Chief"? A. Where she was lying at.

Q. Was she to the port or to the starboard of the "Helene"? A. Was on the port of the "Helene."

Q. Which side was the "Mikahala" pulling on in reference to the "Celtic Chief"?

A. On the starboard side.

Q. And the "Helene" was on what side?

A. On the port side.

Q. She was on the port side? A. Yes, sir.

Q. Where was the "Arcona" with reference to the "Mikahala" and the "Helene"?

A. Right between them.

Q. And yet the "Arcona" was on the port side?

A. Her stern was on the port side.

(Testimony of Richard Clarke.)

Q. Was she more toward the "Helene" or more toward the "Mikahala"?

A. Well, there right between them.

Q. Was she more toward the "Mikahala" or more toward the "Helene"? A. I haven't got no idea.

Q. Which way was she pointing? With her bow toward—was she pointing over toward the "Mikahala"? A. I haven't got no idea about it.

Q. You don't know? A. No.

Q. As a matter of fact, isn't it true that she wasn't pointing toward any one—that she was dead astern?

A. Sometime near the stern, running around.

Q. The waves would bring her around so that sometimes her bow would be directly astern of the "Celtic Chief" and then again it was shifted. That's correct? A. That's as near as I can give.

Q. Yes. You weren't there, Mr. Clarke, when the "Arcona" was pointing with her bow more toward the "Mikahala" than [1442—608] toward the "Helene." Can't you answer my question?

A. Well, I have no idea of thinking about those steamers.

Q. Then why did you say on direct examination, Mr. Clarke, that the "Arcona" was lying over the "Helene," at an angle somewhat across of the "Celtic Chief"?

A. Sometime the swell would bring her around.

Q. She was working back and forward?

A. Working out and in.

Q. And that's what you meant on direct examination when you said she was lying across the stern?

A. Little bit over.

(Testimony of Richard Clarke.)

Q. Sometimes she'd be around straight?

A. Around straight.

Q. Sometimes she'd be in the other direction. Would she sometimes be pointing toward the "Helene," too? Can you answer the question?

A. I had no idea to watch those steamers.

Q. Now, Mr. Clarke, isn't it the fact that you didn't notice at all?

A. Sometime when I stand on the poop and looking over this way and the waves working her up.

Q. Then you mean to say, Mr. Clarke, that you didn't pay any particular attention to her position?

A. I didn't pay attention.

Q. And you aren't able to say just what position the "Arcona" had out there?

A. What I say it's what I'm telling.

Q. Sometimes she'd be pointing in one direction and sometimes in another; is that right?

A. That's what I understand.

Q. That's what you saw, wasn't it? Her bow would be swinging back and forth, would it?

A. Her bow sometimes her stern working a little.
[1443—609]

Q. Was she working very much?

A. No; of course, I didn't watch her all the time.

Q. Well, did you watch her at all?

A. Just look on the side.

Q. Because you weren't concerned with what the "Arcona" was doing?

A. I don't pay no attention about her.

Q. Well, I want to know what you meant when you said, "She was lying somewhat on the port

(Testimony of Richard Clarke.)

quarter of the 'Celtic Chief' ''? What did you mean by that?

A. Well, she's working herself, you know, when she slipped around. Take any steamer out in the sea would *sloop* around when little current come, no matter how many anchor you put on it. Bound to work.

Q. Did you observe this from her lines? You could see this from her lines?

A. I saw in the daytime.

Q. In the afternoon? A. In the afternoon.

Q. *What* that before or after she had put both her lines on?

A. After she put both lines on board of the ship. Then I didn't take notice to watch her all the time.

Q. You didn't notice her after she put both her lines on? A. No.

Q. Is that when you noticed that she had that position a little bit crossways, more toward the port quarter? A. That's right.

Q. After that you didn't notice what her position was? A. No.

Q. That's what you believe now? A. Yes.

Q. That's your present recollection? A. Yes.

Q. And you think she put both those lines on board the "Celtic Chief" a little bit after dark?
[1444—610]

A. Little after dark when I see two lines on board.

Q. Did you see them before that?

A. I saw one line.

Q. She had only one line on board all of Wednesday afternoon? A. I didn't take notice of the two.

(Testimony of Richard Clarke.)

Q. What time do you think it was?

A. Sometime in the afternoon.

Q. About five or six o'clock?

A. I had no idea about time.

Q. But you're sure she didn't have two lines on board until somewhere about dusk or dark?

A. Sometime in the evening.

Q. About dusk or dark?

A. Might be dark. I had no idea.

Q. You weren't paying any attention to those lines at all? A. No.

Q. Not any time? A. No.

Q. Did Mr. Mason take any orders from you at all? Tom Mason? A. Tom Mason?

Q. Yes. Did you direct him to do certain things?

A. Only when I gave him some order to make straps.

Q. Now, at this time that you first felt she was moving two or three hours before she came off, between eight and ten o'clock, didn't you have something to do with the getting of those tackles taut again together with Mr. Mason? A. We did.

Q. You did, didn't you? A. Yes.

Q. Tom Mason was there when those tackles fell down? A. He was there.

Q. All there? A. Weisbarth.

Q. You?

A. Weisbarth there. Tom Mason and Frank running the steam launch.

Q. Frank Loncke?

A. Loncke? I don't know; he's the steam-launch runner. I was standing *the* the top. [1445—611]

(Testimony of Richard Clarke.)

Q. Was Loneke the same man who was most of the time on the capstan with the lines?

A. I see him sitting on the capstan.

Q. He was there most of the time?

A. Sitting around there changing the fall.

Q. That's all he was doing?

A. That's all he was doing.

Q. He really didn't have much to do with the work? A. He go around once in a while.

Q. That's about all? A. That's all.

Q. Now, at this time that I'm speaking of when the tackles dropped down to the deck, the first time that she moved between eight and ten o'clock, did Tom Mason and Weisbarth, both of them, help to get those tackles back taut again? A. Yes.

Q. And fleeted?

A. Fleeted with the gang of the boys. They cannot do it with two or three men. You got to have a gang there to help.

Q. Tom Mason was there? A. He was there.

Q. He saw when the "Celtic Chief" took this jump? A. Yes.

Q. He and Weisbarth called you? A. Yes.

Q. You all knew that she had moved at that time?

A. Yes.

Q. How did you know? A. Felt the jump.

Q. Did they say so?

A. They all said, "There, she's coming; God damn her. We make money now."

Q. Mason said that too?

A. Everybody I talked to.

Q. I want to know if Mason said that?

(Testimony of Richard Clarke.)

A. I think Tom said that.

Q. He was there all right?

A. I was there all the time.

Q. Tom Mason was there all right and knew that she was coming?

Mr. MAGOON.—How could he tell? [1446—612]

The COURT.—Objection overruled.

Q. Tom Mason knew all right enough that she had taken this jump between eight and ten o'clock, the first jump? A. I guess he knew it well.

Q. What is that? A. I think he understand it.

Q. Don't you know? You were right there.

A. I'm right there.

Mr. WEAVER.—How could this man say that the other man heard it?

Mr. OLSON.—I'll withdraw my question. Could he help hearing all of these remarks? A. Who?

Q. Tom Mason, about her coming off and that you were all going to make money?

A. I don't know about their mind. That's what I heard the boys was talking.

Q. Did Tom Mason hear this?

A. He must have heard it.

Q. Now, what was it that Tom Mason did then in getting those tackles on the ship? What part of the work did he do after they had fallen down the first time showing that the "Celtic Chief" had taken this jump?

A. All hand haul in the slack and shift the blocks.

Q. Did he have anything to do with fleeting of the blocks? A. Fleet? That's the same.

Q. Was Tom Mason there at the time?

(Testimony of Richard Clarke.)

A. Tom Mason was there and I was there.

Q. How many men would it take to do it?

A. I can't tell you, but we had to get plenty of men.

Q. About how many? A. About ten men.

Q. Tom Mason was the man who was in charge of it? A. Yes, Tom Mason and Weisbarth.

Q. What was Weisbarth doing? [1447—613]

A. Taking charge of the tackle.

Q. Did he have anything to do with the overhauling of the blocks?

A. Yes, they overhauled together.

Q. Now then, from that time on until the next two or three hours until the "Celtic Chief" came off as you have testified what were you and Weisbarth and Tom Mason doing? Between the first jump and the time that she finally came off? Don't you know?

A. I've forgotten that now.

Q. You were simply attending to the things around the deck?

A. Walking all over, forward and backward and talking with one of the steamer's mate.

Q. Were you heaving on the capstan?

A. The boys was heaving on it.

Q. Now and then they wouldn't push all the time?

A. Get a little taut then take a spell.

Q. Would they go over there and take a chance on it for may be fifteen minutes or so?

A. Can't stay on the capstan all the time.

Q. Were they busy all the time?

A. They really have no times. It's a little taut they take a little breath then start in again.

(Testimony of Richard Clarke.)

Q. Now, Mr. Clarke, what did you mean when you said the rest of the men began to say, "Now, we're going to make some money," when you felt her coming the first time? What were you talking about? You were going to make some money?

A. The boys got their mind.

Q. You were going to be paid?

A. No, sir; what they told the boys, that they might get extra.

Q. Did you get anything extra?

A. I didn't get any extra.

Q. Had Captain Miller told you that you'd get anything [1448—614] extra? A. No.

Q. You just thought that you would?

A. Yes, that's what I thought.

Q. Do you expect to get something extra?

A. I don't know.

Q. If Captain Miller and the Miller Salvage Co. gets an award in this case of damages from the "Celtic Chief," do you expect something extra?

A. I have no authority about that.

Q. Well, do you expect to?

Mr. MAGOON.—I object to it.

The COURT.—I allow the question.

Q. Do you expect to get something more whenever the Miller Salvage Co. gets an award for salvage in this case?

A. I don't know. They might give me a present.

Q. Do you expect that? A. No, I don't expect.

Q. Have you been promised anything at all?

A. I never promised anything.

Q. Do you intend to ask Captain Miller to give

(Testimony of Richard Clarke.)

you something more? A. No, sir.

Mr. MAGOON.—Object to that, whether he intends to ask.

The COURT.—It might show his attitude. I allow the question.

Q. Now then, Mr. Clarke, was the jump that you felt the second time, along between about eleven o'clock or twelve o'clock when she came off, was the moving that you felt then pretty much the same as the first movement that you had felt earlier in the evening on the part of the "Celtic Chief" about eight or half-past eight o'clock?

A. What I felt it's like those.

Q. Didn't she jump forward and off? A. Yes.

Q. Didn't the tackles drop down suddenly?

A. Yes. [1449—615]

Q. And she was off all of a sudden?

A. All of a sudden you could see the lines come off.

Q. When those tackles dropped you felt her suddenly come out of the water? A. Yes.

Q. And it was pretty much the same sort of a feeling that you felt early in the evening?

A. The first jump not quite so fast.

Q. But she went after a hard run?

A. Somewhere about half walk and running.

Q. How long did it give that jump the first time?

A. I didn't take no notice.

Q. Half a second or a second?

A. About half a second or a second.

Q. And the tackles dropped down on the deck that time too? A. Dropped right down on the deck.

(Testimony of Richard Clarke.)

Q. Now, just where were you this time that you felt this first jump about half-past eight in the evening? Do you remember just where you were?

A. No, sir.

Q. Were you over to the side of the vessel or in the middle or alongside of the tackles?

A. I was on the side of the ship.

Q. What side of the ship?

A. On the starboard side.

Q. What were you doing?

A. I was looking in the water seeing the swell coming on the side.

Q. Just simply looking overboard?

A. Just passing my time.

Q. You weren't particularly noticing anything?

A. No until I feel that jump.

Q. Then you felt that? A. Yes.

Q. You weren't noticing particularly what the steamers were doing—the ships?

A. No, I didn't take no notice.

Q. Didn't take any notice about them at all?

A. No. [1450—616]

Q. Don't know what they were doing? A. No.

Q. You weren't interested in what they were doing—you were simply interested in doing your own work as best you knew how? A. As best I know.

Q. Between this first jump that you've testified to, which took place, according to your testimony, about half-past eight o'clock, and the time that the "Celtic Chief" finally came off, did you feel any other jumps of the "Celtic Chief"?

A. There was only two jumps.

(Testimony of Richard Clarke.)

Q. The first one that you testified to and the last one. A. And the last one.

Q. And that's all? A. That's all.

Q. Pretty sure that you didn't feel her make any movement off?

A. That's the only two feelings I had.

Q. The tackles didn't drop down to the deck at any other time or became slack?

A. No, only that time.

Mr. OLSON.—That's all, reserving, however, the right to cross-examine on that question of distance between Beretania Street and Club Stables.

Cross-examination of R. L. CLARKE on Behalf of Inter-Island Steam Navigation Company.

Mr. WARREN.—Q. You said that at the operations on the "Manchuria" they had had this same Miller anchor? A. Yes, sir.

Q. What is now the Miller anchor, and you called that the chief anchor? A. Yes.

Q. And then there were four other anchors? How many anchors in all at the "Manchuria" operations?

A. Altogether we had, altogether with the twelve car [1451—617] wheels. We used some car wheels for anchors, too.

Q. That is, aboard the "Manchuria"? A. Yes.

Q. And you had one big line to the Miller anchor, which is now the Miller anchor which you call the chief anchor, and connected with the chief anchor there were attached to that chief anchor four other anchors. Is that right?

(Testimony of Richard Clarke.)

A. Four other anchors and those car wheel.

Q. Why did you call this Miller anchor the chief anchor? A. That's the first anchor they dropped.

Q. There were no other anchors attached to the Miller anchor, to that anchor?

A. There's some. After we dropped that big anchor over then we go about five or six hundred feet we drop another one.

Q. And where was the line from the second anchor? Where was it attached?

A. Attached to the other wire hawser to that main anchor.

Q. Where attached to it?

A. Attached to that wire. We had just one big wire. There's a main anchor and then the other wire connection on this.

Q. The other anchors were connected with the hawser of the main anchor?

A. The main anchor, yes.

Q. So that there was really only one line came aboard the "Manchuria" from all of those anchors?

A. Yes.

Q. And how many anchors were there attached in that way to your chief anchor?

A. Somewhere around eight or ten anchors. I forget about the time I was out there. I think it's near enough, ten anchors altogether with the car wheels.

Q. Where were these car wheels, on board the "Manchuria"? A. This car wheel?

Q. Yes.

(Testimony of Richard Clarke.)

A. Some on the "Manchuria" from the railroad.
[1452—618]

Q. Where was the anchor-line attached on the "Manchuria"? A. Attached to the stern.

Q. Up to a cart wheel on the "Manchuria"?

A. They furnished the whole cable to the "Manchuria."

Q. How many anchors were there attached to the chief anchor? Not attached to the "Manchuria" but attached to the main anchor.

A. I think there was four outside of that chief anchor.

Q. That made five on that line?

A. Five, and the car wheel, and that twenty or thirty car wheels.

Q. Car wheels?

A. Cast-iron car wheel. Twenty-four of them. Run a wire right through and connect with the anchor.

Q. Where was that attached?

A. Attached to that same hawser.

Q. So that you had one big hawser running to your chief anchor? A. Yes, one big anchor.

Q. And all the rest of these anchors and the car wheels were attached to the line of the chief anchor?

A. Yes.

Q. I understood you to say there were four anchors attached to the big anchor?

A. Five altogether with the main one; four others and the car wheel be all attached to that main hawser.

Q. Take that arrangement of twenty-four car wheels; how many tons do you think they weighed?

(Testimony of Richard Clarke.)

A. I had no idea.

Q. As near as you could give it?

A. Pretty heavy for two men to lift it.

Q. Well, one ton or ten?

A. I think, as near as I can give it, four or five hundred pounds.

Q. Each wheel four or five hundred pounds?

A. Them big wheels, regular locomotive wheels.

[1453—619]

Q. The other four anchors weighed about five and a half tons each? A. Or more.

Q. How much more?

A. Maybe six tons; something like that as near as I give it. Between five and six.

Q. About the same size as the chief anchor itself? Is that so? A. No, smaller than the other.

Q. A little smaller? A. Yes.

Q. Now, you gave us yesterday from your book, a statement of the total amount of wages paid to the men engaged by Mr. Miller. You gave us a total figure of \$720.30, then later on cross-examination you discovered that you had answered too hurriedly a question as to the number of men engaged and amended, and you changed your figures. That would make a difference in the total, wouldn't it?

A. Yes, I forgot one page. I never gave it.

Q. You skipped a page yesterday, is that it?

A. Yes, I skipped one page; yes.

Q. You think all the rest of your figures are right that you gave yesterday?

A. Except one page. It was over \$900.00 expense.

(Testimony of Richard Clarke.)

Q. Over nine hundred now?

A. Yes. I skipped one page yesterday. Over nine hundred we paid to the men. I don't know about it, Mr. Magoon is taking it down now.

Q. I'd like you to turn to the page in this book that you skipped yesterday? A. 224.45.

Q. What page is it? Are the pages numbered?

A. No, I didn't number it. I give you the right figure now, 224.45.

Q. That makes how many men worked on Monday? [1455—621] A. Twenty-two men paid.

Q. Twenty-two on the page that you skipped?

A. Some of those men didn't show up; next day that they skipped we place a man all the way through.

Q. How do you mean placing a man?

A. Putting a man when one absent. If I absent one man I put a man in that morning.

Q. A new man? A. New man.

Q. Then you have on the first page in this book a statement that there were sixty men on December 6, 10, to 12.

A. That's overtime I want put that for memory.

Q. What does that sixty men mean?

A. I just put it for memory.

Q. What is the meaning of December 6, sixty men?

A. Sixty men working from ten A. M. to 12. 12 noon to 5. From 5 P. M. to 12 at night. 12 o'clock that night to 4 o'clock in the morning.

Q. You gave us thirty-one men yesterday worked three-quarters of a day?

A. That's the whole amount of it. How many men three-quarters of a day?

(Testimony of Richard Clarke.)

Q. Yes, how many men three-quarters of a day?

A. Fifty-four.

Q. Fifty-four men?

A. Fifty-four men three-quarters of a day.

Q. Worked three-quarters of a day on Monday?

A. On Monday and nine men works eight hours' overtime.

Q. Now, what men were they? A. "Kaimiloa."

Q. Part of the first bunch?

A. That is the first bunch.

Q. These nine men that you have just spoken of as working eight hours overtime, are they part of the fifty-four?

A. They part of the whole bunch I had on Monday.
[1456—622]

Q. Fifty-four men was the total number of individual men that you had working there on Monday?

A. Yes, I had all those men working on Monday. They all got different times.

Q. There were only fifty-four men altogether there? A. All I give you, fifty-four.

Q. Now, of those fifty-four, nine of those men worked eight hours overtime?

A. Yes, nine. There is some Japanese, too, in that bunch. I don't know their names.

Q. How many? A. Three Japs.

Q. That would make fifty-seven?

A. Fifty-seven, and myself is fifty-eight and Weisbarth fifty-nine, and Frank, one of Frank's men helping on the steam launches.

Q. Oh, you're now back to sixty altogether. Of those sixty, twenty-five worked eleven hours over-

(Testimony of Richard Clarke.)

time. That is part of the same men. Did you get new men to work overtime?

A. Some of them went off and some of them stayed with me altogether eleven hours.

Q. Twenty-five out of the sixty worked eleven hours? A. More than that.

Q. And nine of them worked eight hours.

A. Only nine men worked eight hours. All the rest stayed with me.

Q. All the rest of the sixty?

A. The balance of the sixty. Take eight men out of the sixty left me fifty-two.

Q. Now, those fifty-two men worked eleven hours overtime? A. Worked overtime.

Q. You gave yesterday twenty-five men?

A. Twenty-five?

Q. Yes. A. Because I haven't got this book.

Q. These answers that you gave us yesterday were they [1457—623] all given in pretty much of a hurry?

A. You fellows wanted me to give you the figures.

Q. They might be incorrect?

A. I was in a hurry. I got no time to spare so I could tell you.

Q. So you are not sure now that the figures you gave us yesterday are correct? They are not correct, are they? A. No.

Q. What you gave us are incorrect figures?

A. If you fellows give me time to copy all this list down I give you the straight time.

Q. We'll have you do that before leaving the stand,

(Testimony of Richard Clarke.)

but we'll pass on now to some other points. You left on the "Mokolii" when she came in on Tuesday, early Tuesday morning?

A. I was on the "Makee" when the "Mokolii" left.

Q. What's that?

A. I was on the "Makee" when the "Mokolii" left.

Q. She left Monday night?

A. She left there that Monday night.

Q. And the "Makee" left three or four o'clock Tuesday morning?

A. Four o'clock in the morning.

Q. Tuesday morning? A. Tuesday morning.

Q. And you came in on the "Makee"? A. Yes.

Q. And you went over to the Hackfeld wharf?

A. Yes.

Q. Where you discharged the fertilizer you had taken on the "Makee"? A. Yes.

Q. And the figures that you have given us for the men employed on Tuesday were working on the deck on the ship. How many men were working on the ship Tuesday? On the ship?

A. On the "Makee"? [1458—624]

Q. No, on the "Celtic Chief."

A. No, everybody went ashore together with me.

Q. All the Miller's men left the ship on Tuesday morning? A. We all went ashore.

Q. When the "Makee" came in early on Tuesday morning she carried with her all of Miller's remaining men? A. Yes.

Q. So that there were no more of Miller's men on

(Testimony of Richard Clarke.)

the "Celtic Chief" from the time the "Makee" came in until you went out again with the anchor?

A. Until we went out again with the anchor.

Q. And these figures for men working on Tuesday were for men working on board the "Makee" and on the wharf? A. And on the wharf.

Q. Now, where did you get your figures to put in your book for the number of hours each man worked? How did you get that?

A. Well, when the "Kaimiloa" came in I went on and talked to them. I asked those fellows what time they came in, certain hour. I said, "You fellows only get eight hours overtime."

Q. You counted the number of men that came in?

A. I asked Tom Mason so he gave me the number of men.

Q. He gave you a memoranda and you took that memoranda and got your figures from that?

A. Yes.

Q. For this time? A. For this time.

Q. You don't know whether the figures are correct or not? A. Yes.

Q. If there is any error it's as to the number of men on board? A. That is the part he gave me.

Q. That's as to all the men that worked on the "Kaimiloa"? A. On the "Kaimiloa."

Q. And you yourself took the time for the men who came [1459—625] back by the "Makee." How about the men that went ashore on the "Concord" on Monday?

A. I got all of their time together.

Q. Where did you get their time from the time the

(Testimony of Richard Clarke.)

"Concord" left there?

A. I told Moses to get me the time.

Q. You told who? A. Moses.

Q. Who is he?

A. He's working for Young. He was working with Miller.

Q. Moses who? A. I don't know his last name.

Q. Who is he, an Hawaiian? A. Hawaiian.

Q. And he gave you the figures for the "Concord" men? A. For the "Concord" men.

Q. So you don't know whether these figures are right or not as far as the number of men is concerned?

A. He gave me the nearest he can give me. That's what I took down.

Q. Did you have any talk with him about the number of men on the "Concord"? A. I asked him.

Q. What did he say?

A. He said I had so and so, so and so.

Q. Did he give you the names of the men?

A. I had all the names was taken down before we went out.

Q. Well, now, how did you enter up the number of hours for each man afterwards?

A. Well, he gave me a slip after he take the men's names down he gave me a slip.

Q. He gave you a slip with the men's names on and the number of hours each had worked? A. Yes.

Q. And each one of these men was paid according to the number of hours that was credited to him on that slip? [1460—626] A. Eleven hours.

Q. You saw each of those men paid?

(Testimony of Richard Clarke.)

A. I was down the dock there when they paid all the men.

Q. You took from the lists—

A. Vannatta was taken from the list?

Q. Who? A. Vanatta.

Q. And what were you doing?

A. I was standing by and called all the names.

Q. You knew all the men?

A. I knew all the men.

Q. All personally?

A. All Hawaiian and few Portuguese.

Q. You'd be able to pick each one out and call his name? A. Yes.

Q. You didn't see the "Concord" men when they came in? A. They came ahead.

Q. And by the time you got ashore they were all gone? A. They was laying around the dock.

Q. But not working?

A. Waiting till we come in.

Q. What was it you were telling us about a line that you tried to get aboard the "Celtic Chief" on Tuesday night? A. Well?

Q. What line was that?

A. We was going to try get our heaving line on that we got attached to our hawser.

Q. So you got your hawser on board that night. How was that heaving line brought from the "Makee"? Was it passed from the "Makee" to the "Mokolii"?

A. No. Yes, we throw a line to the "Mokolii." They couldn't catch it.

Q. They couldn't catch it on the "Mokolii"?

(Testimony of Richard Clarke.)

A. No, they couldn't catch it.

Q. And the "Mokolii" didn't make any other attempt?

A. No, he got scared. He didn't want to go up against the ship. [1461—627]

Q. That was after the big anchor had been dropped was it?

A. The big anchor wasn't dropped.

Q. The big anchor was not dropped?

A. It was on deck and while it was on deck, when it was on board the "Makee," we gave orders to have a heaving line taken over, thrown to the "Mokolii."

Q. From the "James Makee"?

A. Yes, from the "Makee." Captain Miller sing out to us to throw a heaving line.

Q. Then what else?

A. If we can get a heaving line on the "Mokolii" we can go alongside the "Celtic Chief."

Q. Anything further?

A. We couldn't get the line on board.

Q. What further did he say? What did he intend to do, if you know?

A. I don't know about his intention only what he gave to us an order to throw the heaving line on the "Mokolii."

Q. And then take that to the "Celtic Chief"?

A. If they could.

A. And could they? A. But they didn't.

Q. That's what he wanted to do? A. Yes.

Q. The idea was that if he got that line on the "Celtic Chief" then they would be able to pull your cable on?

(Testimony of Richard Clarke.)

A. I think so, yes, because one end of the heaving line was attached to the hawser.

Q. Then, if Captain Miller could have got that heaving line on board he was expecting to pull the hawser on board the "Celtic Chief" that night?

A. I think so. I have no idea about it.

Q. What words did he use, as nearly as you can remember?

A. I can't hear him because he was up on the cabin. I was down on the hatch.

Q. How do you know what he wanted? [1462—628]

A. He sung out aloud, "Take this line aboard the "Mokolii."

Q. What orders did he give the "Mokolii"?

A. The "Mokolii" can't get that line; when we throw it they can't grap it.

Q. How do you know they could take that heaving line to the "Celtic Chief"?

A. If they got it to the "Mokolii" they run it on to the "Celtic Chief."

Q. How do you know that?

A. That's what I thought they was thinking.

Q. Why do you think so? Because of something Captain Miller said?

A. He said, "Take this line aboard the 'Celtic Chief.' "

Q. He said, "Take this line aboard the 'Celtic Chief,' " did he? A. Yes.

Q. Then when did he drop the anchor? When did you drop the big anchor from the "Makee"?

A. In the morning.

(Testimony of Richard Clarke.)

Q. Did you drop it from the "Makee" that night?

A. No, sir, we dropped the small anchor.

Q. You didn't drop the big anchor at all Tuesday night?

A. Never dropped the big anchor, dropped the small anchor.

Q. Kept it right on the main hatch of the "Makee" all night? A. All night.

Q. And then in the morning did you pull up your little "Makee" anchor?

A. Well, early in the morning we hoist up the anchor.

Q. And that's the anchor you hauled up?

A. Own anchor.

Q. A very much smaller anchor?

A. Smaller anchor.

Q. Then you did what?

A. Run right back of the stern of the "Celtic Chief,"

Q. What course did you take in the water to run out that way?

A. I didn't take no notice. [1463—629]

Q. Did you go behind the "Helene" or around the buoy?

A. We went right off the bow of the "Helene."

Q. How about the "Likelike," was she there?

A. I think I saw her out there.

Q. You think you saw her out there? A. Yes.

Q. You went around the bow of the "Mikahala" and came between the "Helene" and what other boat? A. The "Intrepid."

Q. And then you did what?

(Testimony of Richard Clarke.)

A. Captain Miller gave the order to Weisbarth to lower that anchor and take aboard the "Celtic Chief."

Q. You didn't take the line on the "Celtic Chief" yourself?

A. I took the heaving line with me and the snatch tackle, snatch block.

Q. And you went ahead to rig up the strapping from the foremast to the bitts?

A. No, I went aboard and take in the heaving line from the starboard quarters of the "Celtic Chief."

Q. You took it from the quarter chock?

A. From the stern.

Q. And what time was the strapping rigged between the foremast and the bitts to which you afterwards attached your main tackle?

A. Don't have no idea about the time, sir.

Q. Well, was it Tuesday night or Wednesday morning? A. Was Wednesday morning.

Q. When you came aboard Wednesday morning had that strap been on or was it put on after you got there? A. After we got there.

Q. Who did it? A. Tom Mason.

Q. Tom Mason did that?

A. And Weisbarth and some other boys.

Q. What were you doing while that was being done? [1464—630]

A. I was on the poop to take in the slack of the hawser with my snatch block.

Q. As far as you know, did the "Mokolii" go alongside the "Celtic Chief" on Tuesday night?

A. I have no idea about it.

(Testimony of Richard Clarke.)

Q. She may have? A. She might; might not.

Q. Where was Captain Miller? On board the "Mokolii" or the "Makee," Tuesday night?

A. Tuesday night he was on the "Makee," before we had our lunch; that is, twelve o'clock.

Q. When he gave those orders about the heaving line, he was on the "Makee"? When he gave his order for that heaving line to be thrown over and taken to the "Celtic Chief," he was on the "Makee"?

A. Yes.

Q. Do you know whether he afterwards went aboard the "Mokolii"? A. I don't know.

Q. Do you know where he spent the night? On which boat?

A. Because I went to sleep at eight o'clock that night.

Q. Where was Captain Miller in the morning when you woke up? A. He was up in his cabin.

Q. On the "Makee"? A. On the "Makee."

Q. Was the "Mauna Kea" out in the vicinity of the "Celtic Chief" on Monday morning when you went there?

A. Yes, she was out there on Monday morning. I made a mistake by saying Wednesday. When I went home I wake up all night and think over because I was there working and whether I am right.

Q. Since yesterday you have thought over your testimony as to the "Mauna Kea" and you are sure now she was there Monday morning. Do you know, can you say whether she was there Wednesday morning?

(Testimony of Richard Clarke.)

A. I have no idea about Wednesday morning. Only Monday.

Q. You are sure of Monday? A. Monday.

Q. Was it Monday morning that she broke her hawser?

A. It was Monday morning when I was tending the [1465—631] gang all passing the cargo to "Concord," passing the fertilizer and the boy say, "There goes the rope—gone to hell!"

Q. That's the first you knew of her breaking her line? A. Yes.

Q. You were not looking at her?

A. I didn't pay much attention or looking.

Q. You didn't see how she's pulling?

A. Only what I hear the crack.

Q. That same time somebody said, "There goes her hawser"? A. Yes.

Q. Then when you looked what did you see?

A. I saw part of this rope. I saw the two quarters on the port side. I saw those stanchions all tored.

Q. What tore them away?

A. When the "Mauna Kea" made that jump.

Q. The rope falling back?

A. I don't know. When I heard the crack I look.

Q. Where did you hear the crack?

A. On the "Celtic Chief."

Q. What was this crack, the breaking of the hawser or the breaking of the bitts and chocks on the "Celtic Chief"?

A. When the rope carried away it's bound to make a noise in the same minute.

(Testimony of Richard Clarke.)

Q. The cracking that you heard was that the breaking of the "Celtic Chief" bitts?

A. The bitt or else the rope, one of the two. When I looked at it it's gone overboard, the railing and the stanchion.

Q. Do you know how the "Mauna Kea" line was fastened to the "Celtic Chief"? A. No, sir.

Q. You don't know whether the "Mauna Kea" pulling back jerked it and broke it or whether the "Mauna Kea" pulled it out? A. I have no idea.

Q. And you don't know how the "Mauna Kea" was moving when you heard the line break, do you? Now, what did the "Mauna [1466—632] Kea" do then when the line broke?

A. I think she came right back.

Q. Connected up again?

A. I think she came right back in the dock.

Q. Didn't stop to connect up again?

A. I don't think so. I have no idea. I had the men all the time to watch because you got to watch them fellows or they loaf on you.

Q. Do you know how the "Mauna Kea" was after the line broke? A. I don't pay any attention.

Q. You saw her before the line broke?

A. Before the line broke.

Q. Do you know if you saw her after the line broke? A. As I understand he came right back.

Q. You understood that she went back into the harbor?

A. The way how she came by like this, I thought she was going off so I look all the time to the boys.

Q. You don't remember whether you saw the

(Testimony of Richard Clarke.)

“Mauna Kea” again after that?

A. I didn't take no notice.

Q. That was Monday morning?

A. Monday morning.

Q. About what time Monday?

A. Between eight and ten; something like it.

Q. You don't think it was possibly later than ten o'clock? A. Might be later than that.

Q. Might be eleven or half-past eleven?

A. Might be twelve.

Q. Anyway it was the forenoon of Monday?

A. The forenoon.

Q. Was she out there Monday afternoon?

A. I don't think; got no idea about it.

Q. No idea? A. No.

Q. Do you think if she had been there you would have noticed her? A. Sir?

Q. If she had been do you think she was noticeable to you? [1467—633]

A. I might *no* because I was pretty busy with my work.

Q. As a matter of fact, you don't know how many steamers there were out there?

A. There was a few steamers out there.

Q. Two on Monday?

A. No, I think four or five.

Q. Have you any idea what vessels they were?

A. I saw the “Helene,” and I think the “Like-like” came out there too.

Q. The “Helene” was there on Monday?

A. I think so.

Q. You what?

(Testimony of Richard Clarke.)

A. I think she was out there or else she takes the place of the "Likelike."

Q. Or else she took the place of the "Likelike" you say?

A. Yes. I seen some steamer laying that way out there but I don't take notice which one it is.

Q. Four or five on Monday?

A. Four or five, more or less, was laying out there.

Q. When you came in on Tuesday morning, four or five—was it light enough to see or did you notice at all? A. I didn't take no notice.

Q. You didn't notice how many steamers were there when you came in? A. No.

Q. Paid no attention?

A. No, I didn't pay no attention.

Q. Do you know how many steamers were there when you got back with the "Makee"?

A. When I went back there Tuesday night I saw George Fern, that's a man, and I saw the "Helene" and I asked George, "Who is that steamer out there?" and he said the "Helene."

Q. Do you know what other boats were there?

A. No, I didn't take no notice of the "Mikahala."

Q. The "Mikahala" was there?

A. "Mikahala."

Q. "Likelike"?

A. "Likelike"? I didn't take [1468—634] notice; only two boats, because I was talking with one one of the mates.

Q. Only two boats?

A. Only two boats that I see of the Inter-Island because I see two mates.

(Testimony of Richard Clarke.)

Q. There may have been other Inter-Island boats there but you didn't notice them?

A. I didn't take no notice.

Q. Wednesday morning, do you know how many Inter-Island steamers were there?

A. No, I had no idea.

Q. You say Wednesday you don't know really how many steamers were there?

A. I think I saw two. That's all I know.

Q. I don't mean Inter-Island steamers, but steamers altogether?

A. Oh! In the morning, Wednesday morning the tugboat was out there.

Q. The "Intrepid"?

A. The "Intrepid," and some of the Inter-Island boats was there. You know the "Mikahala" on the makai side, I didn't take notice because the "Mikahala" lines come down the hatch.

Q. Was the "Intrepid" there Monday morning?

A. I have no idea.

Q. You don't know if the "Intrepid" was there?

A. I never pay attention if the tugboat comes.

Q. You didn't notice whether the "Intrepid" was there Tuesday night when you went out with the anchor? A. Tuesday night?

Q. Yes.

A. Tuesday night she was out there.

Q. You noticed her there?

A. Because Harry ——— sing out to me if I bring some bottle booze; that's how I know she was out there.

Q. He was aboard the "Intrepid"?

(Testimony of Richard Clarke.)

A. "Intrepid."

Q. He was the ——?

A. No, he was the captain.

Q. Captain?

A. Captain or mate. [1469—635]

Q. Do you know whether or not the "Intrepid" was pulling then?

A. That's very hard for me to tell you because I ain't on that boat to tell what strain they pulling. You see, the line was up and down in the water. I don't know what force they got.

Q. Her line was rising and falling? A. Yes.

Q. Come up out of the water? A. Sometimes.

Q. And was it out of the water less than it was in the water or how?

A. Well, coming up and down; can't take no regular time.

Q. From your observation, what would make it come up and down? A. Might be the current.

Q. Might be the swell? A. Swell.

Q. But the "Intrepid" had her line taut at times.

A. She had this line taut on the ship.

Q. And it would come up out of the water?

A. Sometime out of the water, sometime down in the water.

Q. How long did it stay down when it would go down? A. It didn't take no time.

Q. Was it more down than up?

A. Sometime it stay quarter of an hour down, half an hour.

Q. How long up?

A. Sometimes stays up five minutes, ten minutes,

(Testimony of Richard Clarke.)

something like that.

Q. Goes up and down? A. Yes.

Q. What time on Wednesday did you get the Miller line taut?

A. I think sometime before forenoon.

Q. In the forenoon? A. Forenoon.

Q. About how long before twelve o'clock.

A. Of course, I'm busy out there, didn't going and watching what time.

Q. Are you sure you got it taut in the forenoon?

A. Either forenoon or afternoon, between those times.

Q. As nearly as you can, what time of day? [1470—636]

A. We got it up in the daytime, not in the night.

Q. It might have been two o'clock?

A. Might be, two, three, four, or five.

Q. Before you got the Miller taut line the first time?

A. The first time can't time, the regular time; we were too busy.

Q. Was it before or after you had your meal on Wednesday?

A. We never had no meal until about four o'clock that afternoon.

Q. Four o'clock?

A. Four o'clock I told the boys, "You feel hungry; you get your meal."

Q. Did you stop to eat?

A. Some of them. We got her hauled taut, then we fleet our tackle on to the hawser which I had the

(Testimony of Richard Clarke.)

boy put on the stopper on the hawser way up on the poop.

Q. It was about four o'clock before anybody had anything to eat? A. About four o'clock.

Q. And you didn't stop to eat before you got that hawser taut? A. No.

Q. Never stopped to eat until you got that hawser taut? A. We got it taut.

Q. And that was about four o'clock?

A. Four or three, sometime between noon and afternoon.

Q. Why did you say you didn't get anything to eat until about four o'clock?

A. When it was finished, all the strap. Takes time to make those straps.

Q. You kept right at your work?

A. Tom and those two fellows, Weisbarth and couple boys with him and I was with Frank working.

Q. Everybody kept right on?

A. Everybody was working.

Q. Never stopped to rest?

A. Only Captain Miller here and there.

Q. And you are quite sure it was four o'clock before anybody [1471—637] went to have anything to eat? A. Before we had our *kaukau*.

Q. What was the name of the man you had on the poop? A. Kakai Ekau.

Q. Did you have any other men there who were, in any way, in charge of small gangs? You had Captain Weisbarth, Tom Mason and yourself. You three were generally in charge of the work. Did

(Testimony of Richard Clarke.)

you have any other under-bosses in charge of smaller gangs?

A. The boys were all on the capstan with a foreman, Henry.

Q. Henry who?

A. His name is Henry. Number Four Henry, Henry Kauai.

Q. What was he doing?

A. He was foreman there taking in the —— of the windlass.

Q. Was he in charge of any small gang?

A. He was authority of the boys. I told him, "You better watch this line all the time; take in the slack."

Q. Take in slack?

A. He was sitting down and take in the slack and sometime he watch all the boys.

Q. Taking in the slack on your big cable?

A. On my purchase, because my purchase runs right up to the windlass.

Q. Windlass up to the bow?

A. Yes, and Henry No. 4 was taking in the slack.

Q. As it came away from the windlass?

A. As it came away from the purchase to the windlass, that's the slack he takes down.

Q. He didn't have any more than one man to help him on that?

A. He had one of those men on the bar. He got about seven turn; how many men were heaving.

Q. And about how many men were working?

A. Generally have some extra men.

Q. What's your business now?

(Testimony of Richard Clarke.)

A. I'm driving hack now. [1472—638]

Q. How long have you been driving a hack?

A. I've been driving since last August. One year now. I take and retire from stevedore because I had some trouble with my stomach working night and day, night and day two months.

Q. But you've never been a sailor?

A. Never been a sailor.

Q. And your experience with splicing and rigging a tackle has been confined to the "Manchuria"?

A. Well, little splicing with Bill Larsen.

Q. Did you do any splicing on the Celtic Chief"?

A. No.

Q. There was no occasion for doing any splicing there? A. No, I never have no splicing there.

Q. You saw this various tackle and rigging on board the "Celtic Chief" for the Miller line?

A. Yes.

Q. You had a hawser attached to your steel cable?

A. Yes.

Q. And it was to that hawser that you attached your first main block? A. Main block.

Q. And the other block on that tackle was shackled to the strapping up by the foremast? A. Yes.

Q. Now, when the main block on that first tackle was attached to the hawser of the Miller line, what part of the deck was that work done on? Was it up on the poop or down on the main deck?

A. Down on the main deck.

Q. Down on the main deck? A. Yes.

Q. And how far from the break of the poop?

A. Well, pretty far from the poop break and the after-poop break.

(Testimony of Richard Clarke.)

Q. What's that? A. Pretty far *aspacke*.

Q. You had that hawser come over the stern of the vessel, down to the poop deck, down to the main deck and that's where you shackled the block to the hawser? A. Yes. [1473—639]

Q. Now, about how many feet do you think it was from that spot back to the hatch where the other block was shackled by the foremast?

A. I think about half the length of the ship or three-quarter length.

Q. Half or three-quarter length of the ship?

A. Ship.

Q. Do you know how long the ship was?

A. No, sir.

Q. Well, can you give us approximately, in feet, how long you think that distance was between those blocks?

A. Well, quite a little distance from here.

Q. Longer than the length of this room?

A. Longer than this room.

Q. Twice as long?

A. Might only a half or twice.

Q. You don't think it would be more than twice?

A. I don't think so. If the ship is here I can easily measure and tell you. I don't know how long.

Q. I want it as near as you can give it to me.

A. Maybe two rooms.

Q. You don't think it would be more than that?

A. I can't tell you to to-day.

Q. It might be a little more?

A. Might be a little more, might a little less.

Q. Not a great deal more?

(Testimony of Richard Clarke.)

A. I don't know. I can't tell you that. Might be a little longer.

Q. Well, at this spot on the main deck where you lashed that block to the main hawser, how near was that to the mizzenmast?

A. Call the mainmast is the mizzenmast.

Q. Do you know what the mizzenmast on a ship is?

A. No.

Q. You don't know whether that's the middle mast or the foremast? A. The foremast, I know.

Q. Do you know what the second mast is called?
[1474—640]

A. Call it the mainmast, right next to the foremast. I never been to the sea.

Q. How near to the end mast was that spot where you shackled the block on to the hawser, the mast nearest the stern of the vessel?

A. The aftermast is the break of the poop.

Q. That's right close to the break of the poop?

A. Yes.

Q. The aftermast comes right up along with the break of the poop and goes right at the edge. How did you pass it?

A. I think right in front of the poop. Right in front there, a small capstan. There's a small capstan.

Q. Was it right up with the capstan that you did that work? A. Right where the capstan was.

Q. Were you using that capstan?

A. We never used it.

Q. Were you forward of that capstan?

A. We was right near to it.

(Testimony of Richard Clarke.)

Q. Just about opposite to it?

A. Right abreast.

Q. Then you began taking in slack on the hawser with that first block and tackle? A. Yes.

Q. And you got that as taut as you could and you put on the second tackle? A. Yes.

Q. Well, now, how far forward did that main block move from the spot where you fastened it on until you got ready to put on the second tackle? About how far along the deck did that block travel?

A. As near as I can tell, travelled near the after end of the coaming of the hatch.

Q. About how many feet?

A. I have no idea about that.

Q. Well, as near as you can give it? Six feet or ten or twenty.

A. Somewhere around sixteen feet or twenty feet.

[1475—641]

Q. Sixteen or twenty feet? A. Yes.

Q. Might have been more?

A. Might be more or less because it's right abreast of that windlass we had and to the coaming of the hatch.

Q. And then you ran your first tackle, put a stopper on it? A. Yes.

Q. Then you put on the block for the second tackle? A. Yes.

Q. Then you worked that taut? A. Yes.

Q. How much further did that main block travel by heaving the second block taut?

A. We hauled the second block taut and we put in the third one.

(Testimony of Richard Clarke.)

Q. How far did that block travel?

A. That didn't travel. We had them all one time.

Q. First you got one taut?

A. Then we put the second on. We made that taut and we put on the third one.

Q. Before you put on that one how far did that block travel while you were working the second one taut? A. The main one didn't move at all.

Q. After you put the second one on, you worked that taut, did you? A. Yes.

Q. And after hauling that taut, how far did that main block move then?

A. Well, I put that one, that traveled the first one and we hitched on the other one, haul it taut and take in the third one.

Q. Didn't that block travel at all while you were making the other taut?

A. We stoppered it that time and put on the third one.

Q. You put on the second and third right at the same time? A. After we got them all taut.

Q. And the hauling taut of the second block and tackle didn't make that big block, main block travel on the deck?

A. It didn't travel that time. We put on the other [1746—642] one so it be easier for those three to work.

Q. How many times did you fleet the second tackle? A. Twice.

Q. And how many times did you fleet the third tackle?

A. I think we fleet them the same time, twice.

(Testimony of Richard Clarke.)

Q. Twice? Didn't fleet the third tackle more than twice? A. What's that?

Q. Not more than twice for the third tackle?

A. I think we fleet them twice.

Q. Only twice? A. Just twice.

Q. What was the size of the rope in the main tackle, the first?

A. The size of the main tackle we had, seven and a half or eight inches rope.

Q. Seven and a half or eight?

A. Eight-inch, something like that.

Q. You're not sure?

A. I ain't quite sure.

Q. What was the size of the rope in the second tackle?

A. Little smaller than the first. Somewhere around four and a half.

Q. And the third?

A. Third one was little smaller than the second one. I think about three and a half or three, something like that.

Q. Pretty good-sized blocks, weren't they, on the main tackles?

A. Pretty good; brand new tackle.

Q. How long were those blocks?

A. Pretty heavy.

Q. Eighteen inches across?

A. Something like that. Eighteen or twenty inches; I didn't take no measure. I see the block, that's good block.

Q. Did you lift them? A. Yes.

Q. The block alone?

(Testimony of Richard Clarke.)

A. The block alone. It's heavy.

Q. How much do you think it weighed? [1477—643]

A. As near as I give about one hundred and fifty or one hundred and twenty-five pounds each of the two main blocks.

Q. How many times did the line go through that main block? A. Three times.

Q. And the block of the second tackle, how many times? A. Three.

Q. And the block of the third tackle?

A. Three.

Q. Now, when you fleet what would that do? Say your third tackle, that is when the blocks of the third tackle were drawn together, then you'd lash the second tackle and take off the or loosen the first on and carry the block forward again and you carry the block aft again?

A. After you carry aft one block and carry one forward when you're fleeing. When you're fleeing two, when you got two blocks you put the stopper on the main one and the second right where your hawser is so as to fleet out your number three block.

Q. There's one of your number three blocks attached to the line?

A. One block working; yes.

Q. So when you fledted you'd take one block and carry it away from the other block aft so you could attach it to the fall of the second? A. Yes.

Q. How many men did it take to carry that block from the lashing back to where you wanted to attach it to the fall gain?

(Testimony of Richard Clarke.)

A. There is lot of men there pulling in the slack.

Q. Eight or ten men around there pulling on the block?

A. Pulling on the block and overhauling the ropes.

Q. That's right. You would have a man to handle each rope, each man would take a rope and run it right through the block.

Q. One man couldn't do it alone?

A. No, pretty hard job for him.

Q. Take about how many men really to do that job, to fleet [1478—644] the tackle?

A. I had some men there.

Q. How many men?

A. I think it was six or seven men.

Q. How many?

A. I had no idea about how many men could do it.

Q. I mean working on that small job. Two men or six or ten?

A. Somewhere around there, six or seven, eight or ten.

Q. But it would take that many to fleet each tackle.

A. Some fleet the tackle and some handle the stopper.

Q. When it came to fleet the second tackle it took the same men still? A. It was the same men.

Q. That was a heavier block and tackle?

A. Heavy tackle.

Q. How were the blocks on the main tackle, anything near the size of the first block?

A. Pretty near the same.

Q. Would you say that the main block on the haw-

(Testimony of Richard Clarke.)

ser was twice as big as your block on the third tackle? A. They all big blocks.

Q. There wasn't much difference in their size?

A. Very little. If you bring them out you see. Of course, I didn't take notice, straight up the block and keep in memory. I seen the block down there and I helped them fleet.

Q. Wednesday evening, you say you took sights every twenty or twenty-five minutes? A. Yes.

Q. To see if the "Celtic Chief" were moving?

A. Yes.

Q. Was that before or after the first bump, first jump? A. Before the jump.

Q. Before the first jump.

Q. You took sights right along?

A. After dark. Can't take them in the daylight.

Q. Did you take them after it was dark? [1479—645] A. Yes.

Q. By range lights? A. Range lights.

Q. And all your sights were taken before the first jump? A. Before the first jump.

Q. After the first jump, did you ever take any sights?

A. I and the mate of the "Mikahala" took another sight. I don't know his name. He's a solemn fellow.

Q. What sight did you take?

A. He took a sight from Punchbowl, by lights from Punchbowl.

Q. You took them with him?

A. I took mine from this side of Punchbowl. Waikiki side.

(Testimony of Richard Clarke.)

Q. How many times would you do that?

A. Pretty good.

Q. That was before the jump?

A. Before the jump.

Q. After the first jump you say you and the "Mi-kahala" mate took another sight?

A. Another one.

Q. But you took it on the same light?

A. My light was out of sight so I took up another stanchion to get another light.

Q. You tried to get your own sight and could not?

A. Couldn't.

Q. Did you go back afterwards to see if there was any moving from that other sight?

A. Every spare time I had.

Q. That was after the first jump?

A. Before the first jump.

Q. You didn't take any sights at all after the first jump?

A. After the first jump that way I missed my first sight so I walked around, walked around, chew the rag with the mate and he had his sight, so I said, "I'm going take my light here."

Q. You went to look and couldn't find your sight?

A. I lost my sight.

Q. Did you take any more?

A. I took afterwards. [1480—646]

Q. How many times?

A. I went there four or five times.

Q. After the first jump?

A. After the first jump, the second time.

Q. What did you observe between those times?

(Testimony of Richard Clarke.)

A. I had the intention to see if she is going on or not.

Q. Did you notice any difference?

A. After the first jump I saw the difference?

Q. But after that you didn't see any difference?

A. After the second jump.

Q. Between the first jump and the second jump you didn't have any difference in the sights?

A. I lost my first sight so I took my other sight.

Q. How many times did you take that other one?

A. I think it was three, four, or five.

Q. Did you notice any difference?

A. I went there to see my second light.

Q. Still on it? A. Still on it.

Q. So the ship hadn't moved?

A. Till the second jump.

Q. She was still from the first to the second jump?

A. Yes.

Q. By your lights? A. By my lights.

Q. That was your second sight of range lights.

Recess.

Q. Mr. Clarke, have you checked over your figures in your time book?

A. I got them all down in my time book.

Q. Can you give us now the correct figures for the number of men who worked for Miller? How many hours each? A. I left the book here with Magoon.

Q. Have you attempted to figure out these to get these [1481—647] figures?

A. I have the memorandum in the book. I had the book on that table.

Q. You turned it over to Mr. Magoon? A. Yes.

(Testimony of Richard Clarke.)

Q. And you expect he is working at those figures?

A. He had it in his hand.

Q. Then Mr. Magoon is working that out, not you?

A. Because I gave him the book. He asked me the book.

Mr. WARREN.—I think we ought to have the book.

Mr. WEAVER.—I don't know anything about the book.

The COURT.—The book is not here; we'll have to pass it.

Mr. WARREN.—Then I'd like to have the witness instructed by the Court to get these figures himself from the book and not have his attorney work out these figures.

The COURT.—That's a mere matter of book-keeping.

Q. When the "Celtic Chief" made the first jump, I understand you said you went down in to the cabin where Captain Miller was, to tell him?

A. I went right up to the skylight and called down.

Q. What did you holler down?

A. I called to Miller.

Q. Who else was with him in the cabin?

A. Captain Haglund, and who's that pilot's name.

Mr. OLSON.—Macauley?

A. Macaulay.

Q. Captain Haglund? You are sure about Captain Haglund?

A. I saw them down there having their lunch.

Q. The captain of the ship?

A. The captain of the ship.

(Testimony of Richard Clarke.)

Q. Anybody else? A. That's all I know.

Q. They were at the table eating lunch?

A. Either drinking or eating.

Q. Could you see them?

A. Could see the head, but I don't put my head inside.

Q. You saw their heads all at one time? [1482—648]

A. I saw their heads and I sing out to Captain Miller.

Q. Captain Miller came out? A. Come out.

Q. Did any of the others come out?

A. I didn't take notice.

Q. You don't know whether Captain Macaulay came out? A. I didn't take no notice.

Q. You went right back? A. Yes.

Q. Captain Miller was the only one came out?

A. He came, as far as I know.

Q. You are sure Captain Haglund was down there? A. The bunch was down there.

Q. I'm asking about Captain Haglund. Will you swear that he was down in the cabin?

A. That's my intention, because I saw that bunch was down there.

Q. You didn't look to see whether he was down there? Did you recognize anybody at all down there? A. I saw some heads.

Q. You don't know whose heads?

A. I can't go down and look.

Q. From where you were looking, did you recognize any particular person?

A. I saw some persons.

(Testimony of Richard Clarke.)

Q. Answer the question.

A. I can't tell the particular person I know.

Q. You are not prepared to say that Captain Haglund was down there, are you?

A. Might be down there.

Q. He might have been on the poop or anywhere else on the ship, as far as you know?

A. Might be Haglund down there because I didn't see him.

Q. You didn't see him in the cabin?

A. I saw a bunch down there.

Q. Did you see Captain Haglund?

A. Only I just saw their heads on top. I can't tell who it was when I sing out to Captain Miller.

The COURT.—Why did you mention Captain Haglund's name? [1483—649]

A. Because I always saw that bunch together.

Q. You really don't know, do you?

A. I made up my mind it was him too.

Q. What was it you hollered down the cabin? What words did you use?

A. I sing out, "Captain Miller."

Q. Just called out, "Captain Miller"? A. Yes.

Q. By name? A. Yes.

Q. Didn't tell him anything?

A. Didn't tell him that time on the poop. When we came out the main deck he sing out to me.

Q. You didn't have any conversation with him until he came out? A. Until he came out.

Q. You didn't tell him the ship was coming off until he came out. You simply called him then he came down where you were to see what you wanted?

(Testimony of Richard Clarke.)

A. Yes.

Q. Did he ask what you wanted? A. He did.

Q. What did you tell him?

A. I told him, I think, "The ship is coming out now."

Q. That's the first time you told him? A. Yes.

Q. You didn't say anything about the ship coming out when you sung out at the skylight?

A. Not at the skylight.

Q. That was the time, down on the main deck, after he came out, that he told you to shut up?

A. Yes.

Q. Then, on direct examination, when you said you called to Captain Miller, "She's coming," you didn't mean you called that down the skylight?

A. No, sir.

Q. Did you call it loud or did you say that quietly.

A. I talked like I am talking to you.

Q. Was he close to you? [1484—650]

A. Close to me, like this gentleman right here.

Q. Few feet away? A. Yes.

Q. You've said that the "Arcona" was about as far as from—I mean the "Celtic Chief" was about as far from the "Arcona" as the distance between Beretania Street and the Club Stables. Do you remember that? A. Yes, sir.

Q. Now, at what time was she that far? Were those vessels that far apart? Before or after the "Celtic Chief" came off? A. Before.

Q. Before? A. Yes.

Q. That is while the "Celtic Chief" was aground?

A. Was aground on the rock.

(Testimony of Richard Clarke.)

Q. After she came off she got closer than that, did she? A. Yes.

Q. How much closer? A. It ain't much closer.

Q. What? A. It ain't very close to her.

Q. It ain't very close to what?

A. To "Arcona."

Q. Well, how close?

A. Oh, from Beretania to—what you call this lane down here?

The COURT.—Chaplain?

Mr. WARREN.—Chaplain Lane.

A. When she came off on the fly?

Q. Yes; how far did she move?

A. The firework sent up then I got right down and hurry on my block so I don't pay no attention.

Q. So you really don't know?

A. Only I saw the light.

Q. Did the "Celtic Chief" come off the reef and as soon as these lights went out stop moving?

A. When them lights went out she went on.

Q. How far did she go? When the "Arcona" began pulling how far did she come?

A. About a ship-length.

Q. The "Celtic Chief" moved about her own length off the reef?

A. When she passed that [1485—651] second jump and she commenced to go out.

Q. And she went out in what direction? Toward what vessel?

A. Toward the "Arcona" because the "Arcona" behind her.

Q. And how far did she go toward the "Arcona"?

(Testimony of Richard Clarke.)

from the place she was aground?

A. I got no judgment about that.

Q. You gave us a judgment that she was about as far as from Beretania.

A. The "Arcona" started off to pull on her.

Q. When did the "Arcona" start off?

A. When them fire-rockets went up.

Q. Where was the "Celtic Chief" then, how far from the "Arcona"?

A. She was coming out slowly.

Q. Slowly?

A. Slowly. When she passed that second jump, I think she came off on a jump.

Q. How near did the "Celtic Chief" approach the "Arcona" when she came off the reef? How much distance between them?

A. Well, I got no judgment about that. I never look how close they are.

Q. When you said that the distance was from Beretania Street to the Club Stables, you didn't mean that was the distance while she was off?

A. While they pulling.

Q. And while the ship was on the reef?

A. Yes.

Q. Now, can you tell us how much closer she came to the "Arcona" when she came off of the reef? Didn't she rush out? A. She came out.

Q. Approached the "Arcona"? Did the "Arcona" go half the distance from the place she was ashore to the "Arcona"?

A. I think about that long.

Q. So that would be about half the distance from

(Testimony of Richard Clarke.)

Beretania Street to the Club Stables?

A. Yes, that's the same length, I told you, the corner of the lane and Beretania.

Q. You mean the little lane by the Park Theater or by the Club Stables?

A. No, no; that's Pauahi [1486—652] Street.

Q. Then you mean that the "Celtic Chief" approached the "Arcona" and came within a distance equal to Beretania Street down to—

A. Garden Lane.

Q. Garden Lane, down by the Park Theatre? She came that close? A. Came that close.

Q. After she came off?

A. Yes, after she came off.

Q. You can't approximate that distance in feet, can you? A. No.

Q. Have you any idea how far it is from Beretania Street to the Club Stables in feet?

A. No, I haven't got no judgment about it.

Q. Haven't you got any idea at all?

A. I guess five hundred, five hundred and fifty, or six hundred.

Q. What is your guess for the distance from Beretania Street to Garden Lane?

A. About three hundred feet or less or more.

Q. As near as you can fix it, you say three hundred would be your guess; is that right?

A. I think little more than 300.

Q. How much more?

A. Somewhere around 350.

Q. Are you sure you fleeted the second tackle twice? A. The second tackle? Yes.

(Testimony of Richard Clarke.)

Q. And the third tackle, not more than twice?

A. Well, we fleet him twice.

Q. Not three times? A. Only two times.

Q. Not six times either? A. Only two times.

Q. When you pulled your third tackle sufficiently to draw the two blocks together, how far would that move the blocks on the second tackle?

A. The main tackle, you mean?

Q. I'll withdraw that and put it in a different way. Assuming the distance between the blocks on the tackle to be two hundred feet and that you pulled the line on your first tackle so that the blocks came together, how far would that [1487—653] move the blocks on the second tackle?

A. You might, well, draw it out and easily tell.

Q. Can you draw it out? A. I think so.

Q. Will you do that?

(Witness draws on paper.)

Q. Now, Mr. Clarke, you have drawn on this paper as nearly as you can recollect, the location of the bitt and the fore mast between which the strap was rigged and the first, second, and third tackles as they were connected with each other and the connection of the block on the main tackle with the anchor cable and the way the lines ran from between the tackles and from the third tackle to the capstan. This is correct, as you remember it?

(Witness shakes his head to indicate, "Yes.")

Q. I'd like, at this time, to offer this diagram in evidence.

The COURT.—It may be received.

(Testimony of Richard Clarke.)

(Diagram received in evidence and marked Libellant's Exhibit "C.")

Mr. WARREN.—I'd like to have it on the record that such exhibits as are offered by me are on behalf of both my clients, Inter-Island Steam Navigation Co. and Matson Navigation Co.

The COURT.—So ordered.

Q. Referring to this diagram that you have made, Mr. Clarke, I'll ask you now—

Mr. OLSON.—What's that marked?

Mr. WARREN.—Libellant's Exhibit "C." Assuming the distance between the main blocks, of the blocks of the main tackle, to be two hundred feet, I'll ask you now if the blocks on the third tackle as shown here are drawn together by heaving on the pulley from the capstan, how far would that operate to move the block on the second tackle?

A. Second tackle?

Q. Second tackle. Approximately what proportion of the distance? A. Oh, about fourteen feet.

Q. You say about fourteen or fifteen feet? [1488—654] A. Fourteen or fifteen.

Q. Do you understand the principle of tackles of this sort?

A. I understand when they had anything to rig up.

Q. Then I'll ask you if you want to move the block on the second tackle one foot, how many feet do you have to move the block on the third tackle to do it?

A. Might come at about two feet.

Q. There are three lines in each of these blocks?

A. Yes.

Q. That is, three wheels in each pulley?

(Testimony of Richard Clarke.)

A. Yes.

Q. Sheeves in each pulley, each block. And you think if you move the block of the third tackle two feet it will move the block of the second tackle one foot? A. One foot or less.

Q. How much less? If you draw the blocks on the third tackle from two hundred feet apart to one hundred feet apart, how much would that move the block of the second tackle?

A. Might come to fifty feet.

Q. It would move the second tackle fifty feet?

A. Because we got an equal feet we remove on the main tackle.

Q. What?

A. Remove this way, about fifty feet on the main tackle, then it will gain twenty-five, there'll be a gain of thirty-five or forty feet.

Q. If you move the main tackle fifty feet?

A. The second tackle will move little more.

Q. How much more will the second tackle move?

A. Might move four or five feet.

Q. And the third tackle how much more?

A. Keep counting all the time. We had two feet.

Q. Isn't it a fact that if you move that tackle on this line, if you move the blocks on the main tackle ten feet that will move the blocks on the second tackle thirty feet and the blocks on the third tackle ninety feet? Is that right? [1489—655]

A. I think so because I didn't study on pulling. These three tackles we had we had to shift it twice.

Q. And you are sure of that?

A. I am sure of that because I shift it twice.

(Testimony of Richard Clarke.)

Q. Now, you've told Mr. Olson on cross-examination, that the Miller line touched the water about thirty feet from the stern of the "Celtic Chief." What do you mean by that? Thirty feet along the water or thirty feet of line?

A. Thirty feet of line going into the water.

Q. Counting thirty feet from the point where the line left the stern of the ship down to the point it touched the water? That's what you mean?

A. That's what I mean.

Q. Not from the point where the line touched the water along the surface of the water to the stern of the "Celtic Chief"?

A. From where it goes into the water from the stern down to the water, that's what I meant yesterday.

Q. And the stern of the "Celtic Chief" was about twenty-two feet above the water?

A. As near as I can guess.

Q. That's the point where the Miller line left the "Celtic Chief," about twenty-two feet above the level of the water, as near as you can fix it?

A. That's what I look over the side there, it's pretty high.

Q. That's your estimate? A. Yes.

Q. Do you think it was much less?

A. I don't know.

Q. It might have been less.

A. I don't know because the stern stuck up. It's empty in the stern. I didn't go down on the water there. Comes about twenty-two feet as near as I could give you.

(Testimony of Richard Clarke.)

Q. Could it have been as high only as fifteen feet?

A. What's that?

Q. Could it have been only fifteen feet from the poop of the "Celtic Chief" down into the water?

A. Might fifteen or twenty-two, something like that. I [1490—656] don't take a ball and try how she is; I just look on the side and guess.

Q. And you guessed the length of the Miller line the same way?

A. And I guessed my line where she laying.

Q. How far astern of the "Celtic Chief" did you say the Miller anchor lay? How far out to sea from the "Celtic Chief"? A. Well—

Q. What's that?

A. I think yesterday the guess I gave you, of course, I didn't have the measurement, to say what it was.

Q. Do you remember what you said it was yesterday?

A. I says about 150 or 250 feet. That's what I told yesterday.

Q. 150 or 250 feet? A. By guessing.

Q. Is that where the buoy was?

A. The buoy was on the anchor.

Q. Right above the anchor?

A. Right above the anchor.

Q. Did you have a very long line attached to the buoy or just enough?

A. About three fathom and a half.

Q. Did that buoy have enough line on it to travel a little ways? A. Just travel a little ways.

Q. Didn't have enough line for it to swing away

(Testimony of Richard Clarke.)

on one side part of the time and the other side part of the time?

A. She didn't have very much space. She only had a little over three fathom, three fathom and a half.

Q. That's about eighteen or twenty feet?

A. Might be more than that.

Q. What? A. Might be more than that?

Q. How many feet in a fathom?

A. Six feet to a fathom.

Q. Three fathoms would be eighteen?

A. And a half fathom.

Q. And a half fathom that would be about twenty?

A. Twenty-one. We could claim on the anchor and the wire we had lying on that buoy.

Q. How deep was the water where you dropped that anchor? [1491—657] ,

A. I never sound the place to see how deep that water is.

Q. You didn't sound it? A. No.

Q. Do you know that the line—

A. I know the anchor went in the water; that's all I know.

Q. You see the line from, between the buoy and the anchor before it was dropped in the water?

A. I saw the anchor before they dropped it in the water.

Q. You saw the buoy before they dropped it in the water? A. I saw the buoy.

Q. Were the buoy and the anchor attached when you saw them before they were dropped in the

(Testimony of Richard Clarke.)

water? A. That was attached.

Q. With a line between them? A. With a line.

Q. And your estimate of the length of that line connecting the buoy and the anchor of three or three and a half fathom is based on your observation of that line as you saw it out of the water?

A. I saw the buoy out of the water.

Q. The line itself, your judgment as to its length is based upon your having seen it before you dropped the anchor?

A. I haven't seen that wire put on the buoy. No. It's from examination because when we went on the other side that had all kinked up on it. We had three fathom and a half wire.

Q. When?

A. The time we took it over the storeroom.

Q. What did you do with that three fathom and a half?

A. We keep them two pieces because the other piece was all kinked up.

Q. You didn't use that other piece?

A. They did not use that out there.

Q. Was there one piece three fathom and a half long?

A. It was a piece little over three fathom and a half. [1492—658] Part of it was all tangled up but they used it in the water.

Q. That's the piece they used to fasten the buoy to the anchor?

A. Fast to the anchor. It was my examination, about three and a half fathom.

Q. That would make the depth of the water about

(Testimony of Richard Clarke.)

how many feet? A. I don't know.

Q. How many fathoms?

A. I never sound it there.

Q. Your buoy floated?

A. The buoy was floating around.

Q. Now, about the Inter-Island steamers. On Wednesday night, I undersand you to say, that you really don't know whether any of those steamers were pulling or whether they were not pulling. Is that right? A. Right.

Q. You didn't observe? A. No.

Q. You didn't see their lines?

A. I saw their lines on board the "Mikahala" and the "Helene."

Q. But you didn't observe them off the ship?

A. I never troubled. I looked on the side, I see the line on it. I don't know whether they pulling or not.

Q. So that you're not willing to say anything about what the steamers did or didn't do?

A. No.

Q. For all you know they may have been pulling their best speed? A. Yes.

Q. Now, about the "Arcona" anchor; you say the "Arcona" might have had an anchor out ahead, but do you know whether she had an anchor out at all?

A. I ain't quite sure, but I only got that in my head. She might have an anchor to steady her up.

Q. Do you know whether any of the Island steamers had any anchors? You don't know whether any steamer had out an anchor?

(Testimony of Richard Clarke.)

A. I think only the "Helene" had an anchor.

[1493—659]

Q. The "Helene" had an anchor? How many anchors did the "Helene" have?

A. I only saw one anchor-chain lying out.

Q. You saw one anchor line?

A. One anchor line.

Q. On which side was that anchor line? Which side of the "Helene"?

A. On the starboard side.

Q. On the starboard? A. Port side.

Q. Port bow of the "Helene"?

A. Of the "Helene."

Q. You couldn't say whether she had an anchor or on the other side or not?

A. No.

Q. And you don't know? A. No.

Q. Do you know how far on the reef the "Celtic Chief" was?

A. No, sir.

Q. Do you know anything about the depth of the water around the "Celtic Chief"?

A. No, I don't. Never sound the water to see how deep she is. I never think on that because I was busy on my work and I would take a look outside once awhile to see the waves coming past.

Q. You didn't yourself engage or hire any of the men who worked for Miller, did you?

A. Hire.

Q. Did you engage them to work for Miller?

A. Yes, sir.

Q. You got all the gang?

A. I went and picked up the men and went out.

Q. You picked up the men from around the water-front?

A. Yes.

Q. For the gang that went out on the "Kaimiloa"?

(Testimony of Richard Clarke.)

A. In the "Concord" and the "Makee."

Q. All three?

A. Yes, but "Kaimiloa" came afterwards, later Tom Mason and all those Kanaka went out.

Q. They towed them out by a steam launch?

A. Steam launch.

Q. You engaged the men that went out on the "Concord"? A. Yes. [1494—660]

Q. And the men on the next boat that went out there, the "Kaimiloa"?

A. "Kaimiloa" and the "Makee."

Q. They go out together? A. No.

Q. Which went first?

A. I think the "Makee" came out.

Q. "Makee" was second? A. Second.

Q. "Kaimiloa" third? A. "Kaimiloa" third.

Q. You went on the last, "Kaimiloa"?

A. No, I went on the "Concord."

Q. But previous to going on the "Concord" you engaged all these men? A. Yes.

Q. And had a list with their names? A. Yes.

Q. Before any of them went out you had a list of their names?

A. Yes, I had the list in my book when we went out on the "Concord." Later on the "Makee" and "Kaimiloa" came out there; after we loaded the "Concord" we load the "James Makee."

Q. How much fertilizer did you take out of the "Celtic Chief" and put aboard the "Concord"?

A. I have no idea about that because I just give her a load.

Q. You don't know how many tons you took out?

(Testimony of Richard Clarke.)

A. I didn't count how many tons or how many bags, no.

Mr. WARREN.—That is all.

Mr. OLSON.—There are one or two questions I want to ask. You say that overnight you've been thinking over the question of the "Mauna Kea" being out there and the time that she broke her line and you found that you were incorrect on yesterday when you said she was out there Wednesday?

A. Monday.

Q. It was not Wednesday? A. Not Wednesday.

Q. It was Monday? A. Monday.

Q. And you know that because you were handling cargo? A. Yes.

Q. That recalled it to you because you remember that you [1495—661] were handling cargo?

A. Yes.

Q. Why did you say that you remember it was Wednesday because you were fixing up the rigging?

A. I rigged up some stuff for working our cargo.

Q. Didn't you say yesterday, Mr. Clarke, that you were rigging up the anchor tackles at the time that the "Makee" broke her line?

A. When I went home again I think over my head. You know two years is a long time. If I had things kept down it would be all right. When I went home last night, keep me awake all night. "God damn," I say, "how the hell that on Wednesday? She go away on Tuesday." I had in my head thinking all night.

Q. Why did you say yesterday that you heard the

(Testimony of Richard Clarke.)

line snap at the time you were rigging up the anchor tackles?

A. I got all mixed up yesterday on those steamers. I was thinking all the time when I go home—I think how can that line break.

Q. Harry —— was the man on board the “Intrepid” who called out to you that he wanted some booze? A. Yes.

Q. Did you bring him some booze?

A. I haven’t got any.

Q. You said you didn’t have any booze? A. No.

Q. Do you know if he got any booze?

A. I don’t know.

Mr. OLSON.—That’s all. In saying that was all, I don’t pass the witness up without examining on that book.

Redirect Examination of RICHARD CLARKE.

Mr. WEAVER.—Q. I refer you to this last diagram made by you, Exhibit “C” of Inter-Island Steam Navigation Co., and ask you whether or [1496—661] not you know the calculations, the mathematical calculations in the second and third tackles, we refer to the main tackle that the witness ran back on the second and three times on the third. Do you know whether those mathematical calculations, do you know just exactly how far the second tackle goes, how many feet the main tackle pulls it?

A. No.

Q. Do you know how far this second tackle would be moved when this second tackle comes along?

A. I have no idea.

(Testimony of Richard Clarke.)

Q. Now, then, what is your knowledge of the movements of this main tackle?

A. My knowledge is that I'm already taking that second purchase from the first purchase.

Q. I'm asking you another question. I say, when you testified about the main tackle coming together you observed the main tackle two blocks moving together. That is your statement based upon what? How did you arrive at the statement of how close these blocks came together, how much they moved during the whole time from the first time you lashed on to the hawser to the time the ship came off?

A. I have no idea.

Q. Do you understand my question?

A. Yes, I understand what you mean, but you know when this third block is working and the second one come and this one going slack, I can't tell you what the distance of this block going.

Q. You know where the two main blocks were when you started out? A. Yes.

Q. And you know where the two main blocks were?

A. It's fastened to the bitt.

Q. The hawser block, what did you call the second block, or first block or what? A. First block.

Q. You observed where the first block was and where it [1497—662] was attached to the strap when you started out? You know where it was?

A. Yes, we heave her out again, then put this one on. That's the way you would fleet the first time.

Q. Answer my question. You know how the two blocks were when you got the line taut, the hawser, don't you? A. Yes.

(Testimony of Richard Clarke.)

Q. You know what positions on the ship?

A. Yes.

Q. And you know the positions of those two blocks when your tackles dropped on the deck after night. The two blocks dropped on the deck that night?

A. Yes.

Q. That time the ship came off you observed that distance?

A. When the ship came off the block was way off, but they had fallen down.

Q. Now, at that time had you made any observations about the distance the second tackle had travelled?

A. The second tackle travelled more than the first.

Q. And the third?

A. Little more than the second.

Q. Do you know how much? A. How much?

Q. Can you say how much it travelled? Had you paid any attention? A. I don't pay no attention.

Q. Do you know the relations of this second block with this third block? A. It's more.

Mr. WEAVER.—I'll stop my redirect and let Mr. Warren finish in regard to the book.

The COURT.—Very well.

Mr. WARREN.—Q. Have you with you anywhere or can you obtain the list or memoranda which were given to you by Moses? A. Moses and Vanatta.

Q. What's that?

A. Moses and Vanatta was on the dock. [1498—663]

Q. Vanatta? A. He's got the whole thing.

Q. Where are the slips that they gave you showing

(Testimony of Richard Clarke.)

how many hours? A. Throw it away.

Q. But the men who worked on the "Kaimiloa" and afterwards worked on the "Makee" over at the Hackfeld wharf, you have those figures from your own information, have you?

A. I had from mine and Vanatta had information. He's the bookkeeper.

Q. He had some of those too?

A. He was down there to check up the men.

Q. What part of the figures in this book have been written in here from your own knowledge and which you haven't taken from slips or memoranda given by somebody else?

A. Some in the book. "Kaimiloa," three-quarters of a day and eight hours. When they came to shore they had eight hours and three-quarters of a day. Nine of them.

Q. Now, where did you get these figures for these nine men who worked eight hours?

A. From Tom Mason.

Q. You got those figures from Tom Mason?

A. Tom Mason.

Q. Are there any figures that you had in here without getting them from anybody else?

Mr. WARREN.—By agreement, the pages in this book are to be numbered. I am numbering them down in the lower corner. Now, on what page of this book, as now numbered, are figures which you had yourself, which you didn't get from anyone else?

A. No. 5.

Q. Page 5? A. Page 5, page 7, 9, 11.

Mr. OLSON.—This is on what date?

(Testimony of Richard Clarke.)

A. Date of 6th, 7th, and 8th December.

Mr. WARREN.—Now, the figures, you'll say that all of the figures on these pages you have named are from your own knowledge?

A. Yes.

Q. You didn't get those figures from Vanatta?

A. No. [1499—664]

Q. Did you get any of them from Moses?

A. Well, Vanatta got that name, all them boys.

Q. Vanatta got the names?

A. Of the men worked on the docks.

Q. On these pages that you have just given us?

A. Some of them between those pages; some of the boys working on the dock with Vanatta.

Q. Do you know how many of these names have been paid off and how much from Vanatta?

A. That's all what I know from my knowledge and Vanatta got his own what amount or cheque he paid out. What men laying here Tuesday, didn't go to work with me, I dock it off.

Q. You have in this book the names of men that had been working? A. We run right along.

Q. Same with Vanatta?

A. Same with Vanatta.

Q. Same with Moses?

A. Same with Moses. On Tuesday they quit work for Vanatta.

Q. If he worked for Vanatta on Tuesday, is it in this book? A. No.

Q. Not in this book?

A. Because I don't know what they doing.

Q. What figure in this book did you get from

(Testimony of Richard Clarke.)

Vanatta? A. Didn't take no figure.

Q. What names?

A. I got some names of men in this book, the date of Tuesday not working for me, but is working that afternoon.

Q. Don't you think this morning that you got the names and the figures in this book from Moses, Vanatta and Moses. A. I didn't tell you.

Q. Didn't you tell us—

A. I told you Moses and Tom Mason. I didn't tell you Vanatta.

Q. What names in this book did you get from Tom Mason?

A. These last names, just those nine men. [1500—665]

Mr. WEAVER.—What pages is that?

A. Page 13. (Reads list.)

Q. What names in this book did you get from Moses? A. He had three Japanese.

Q. That's all he had?

A. That's all he had and his brother, Kekaluna. He had three Japanese and his brother, five men.

Q. What did you mean this morning when you told us that the figures in this book had been copied from lists which had been given you by Moses and Tom Mason?

A. That's the one he gave me, on page 13. That is Tom Mason and Moses he only had three Japanese.

Q. And every other name in this book is of men who worked— A. Under me—

Q. Under you? A. Under me.

Q. How many men did you tell us worked under

(Testimony of Richard Clarke.)

you? A. About sixty-odd men.

Q. Didn't you tell me you only had thirty?

A. Well, the whole list is over sixty-odd men.

Q. Didn't you tell me that you took out a gang of thirty men?

A. Thirty men and some men of Mason.

Q. Some men of Tom Mason?

A. Yes, and "James Makee."

Q. How many men did Mason have?

A. I understood when he came ashore with himself, he had nine men.

Q. When he came ashore? How many men did he take out with him when he went back?

A. I got no idea. The men was coming on the steam launch, I don't know they was coming out here.

Mr. OLSON.—These people that you have testified to are all of the men that were paid off for the "Celtic Chief" work?

A. Yes.

Q. That's all, I think. [1501—666]

A. There is some here, got some in Vanatta's book.

Mr. WARREN.—Is there any list of men besides this list? A. The one Vanatta had.

Mr. OLSON.—Do you know anything about it?

A. I never look at his book.

Q. This is the men working our freight, working the cargo and that's all? A. That's all.

Mr. WARREN.—There weren't any men worked for Miller except you had their names in this book, on the "Celtic Chief"?

A. Just on the "Celtic Chief"?

Q. Everybody that worked for Miller in connec-

(Testimony of Richard Clarke.)

tion with the "Celtic Chief" has his name in this book? A. In this book.

Q. The "Concord" went out before you did?

A. I went out on the "Concord."

Q. You took how many men with you?

A. Took some men.

Q. How many? A. Thirty-five or forty. I never checked the men until about in the evening.

Q. What is that?

A. I never checked the men's name until in the evening.

Q. You took out about thirty-five or forty?

A. Thirty-five or forty.

Q. How many did Tom Mason take out?

A. Nine. "James Makee" brought some.

Q. How many?

A. Three Japanese and some natives.

Q. How many? A. I didn't count them.

Q. Half dozen?

A. Half dozen. I had sixty men altogether, include me and Weisbarth.

Mr. OLSON.—That included Mason's men and Weisbarth's men? A. Weisbarth's men.

Q. Mason's too? A. Mason's too.

Q. In that sixty?

A. In that sixty. [1502—667]

Q. You have, in this book, the names of the different men who worked for Miller. By each name you have a figure indicating the number of days each man worked and the number of hours he worked?

A. Yes.

Q. How do you know, and how did you come to

(Testimony of Richard Clarke.)

write in this book opposite any particular man's name the number of days he worked and the number of hours he worked?

A. I worked down the wharf nine years and I've been foreman and everybody do that way.

Q. I'm asking you how you got these figures?

A. I took the time out there, asked for it.

Q. Asked who?

A. Asked any officer. That is Weisbarth. I pulled in the time, marked off the time, eleven hours for you boys, nine hours for you boys, and that's the way I do it.

Q. So that you had to depend on what was told you by— A. All the time.

Q. By Tom Mason as to how many hours his men worked? A. That is so. I copy down.

Q. And on the strength of what he told you you put the figures in this book?

A. He told me eight hour.

Q. And the same as to the men under Moses?

A. And Moses.

Q. You don't know yourself how many hours they worked? A. I never been with them.

Q. You were here in the harbor?

A. I was outside when Moses came in. I was coming behind but Tom Mason came ahead of me. I don't know what time he knocked off so he gave me that time.

Mr. WARREN.—I'd like, at this time, your Honor, to move to strike from the record the testimony of this witness as to the number of hours and days and the amount of wages paid or due these dif-

(Testimony of Richard Clarke.)

ferent men whose names appear in this book, upon the ground that it appears that they are the [1503—668] result of hearsay and not within the personal knowledge of this witness.

Mr. OLSON.—Join in the motion.

Mr. WARREN.—And he cannot testify from his own knowledge what those are.

Mr. OLSON.—I make the same motion.

Mr. WARREN.—I'd like to add to my motion the further ground that the witness is not able to identify what portion of this is his own and what is not.

Mr. OLSON.—Make the same addition to my motion.

Mr. WARREN.—The witness testified that where he gave out the number of days, the number of men, and the amount paid, he gave them in a hurry and they may all be incorrect, and he said this morning that he is not purporting to say that these figures which he has given us are correct, and there are no other figures before the Court.

The COURT.—I don't think he testified the figures are not correct.

Mr. WARREN.—He testified this morning, in answer to the questions, he said he was in a hurry.

Mr. OLSON.—Mr. Clarke, didn't you say that a number of these items in this book were given to you by Tom Mason?

A. There's nine men from Tom Mason.

Q. Weren't there others also?

A. Three Japanese.

Q. And all the rest I think you saw that they

(Testimony of Richard Clarke.)

worked? A. They was working.

Q. Did you see them before the work?

A. Yes, I did.

Q. Didn't you tell us that you got the number of hours those men worked?

A. That's not the nine men.

Q. And all the rest.

A. Moses, he had three Japanese and his brother.

Q. That's twelve and the brother makes thirteen, you make [1504—669] fourteen?

A. I was outside; I remember all the boys.

Q. Then you personally know that forty-eight out of the sixty worked under you and you just gave what hours they worked and—

Mr. WEAVER.—I object to that. He said there were nine men with Tom Mason, and three Japanese. That's twelve and the brother and yourself is fourteen.

Q. We'll say forty-six. There were forty-six men under you were there?

A. On the "Makee" coming home. We had to stay out there to load the "Makee" up. When she was ready they towed us in four o'clock in the morning.

Q. Were any of these forty-six men in the "Concord"? A. What men?

Q. Did any of those forty-six men work on the "Concord"? A. Yes.

Q. Did you take their time when they stopped?

A. I took their time.

Q. Did you take it yourself?

A. I took it myself. That time I discharged her

(Testimony of Richard Clarke.)

I asked this boys. I asked someone. I asked Tom Mason. And I asked Moses, how many men it have in her. Moses had three Japs and him and his brother.

Q. And you had the rest?

A. And Tom Mason had nine and I had all the balance.

Q. Forty-six?

A. Forty-six, and we discharging that morning. After we got through breakfast they worked that morning. Some of them I laid off and I check up on Tuesday. It shows right on the book there what.

Q. On Wednesday you say the figures you find as this morning as to how many men worked?

A. Some got eleven hours. [1505—670]

Q. You don't know how many got that?

A. I didn't copy out the whole list so I told Magoon to mark on the pieces of paper.

Mr. OLSON.—Clearly, that portion that the witness now testifies to as having been received on hearsay cannot go in and the motion should be granted as to that question.

The COURT.—I don't care to hear you, Mr. Olson. I believe it should go in.

Mr. WARREN.—Your Honor holds that it must be connected or it can't go in?

The COURT.—I'm inclined to think so.

Mr. WARREN.—I'd like to ask the witness in whose handwriting are these entries made in this book.

A. My own.

Q. And all these names and figures are writing in your handwriting? A. Yes.

(Testimony of Richard Clarke.)

Q. Now, at what time did you write them in?

A. I wrote the name of that boys one time. The gang I took out first when I look over the book I see the gang. I told them, "I take you boys at five o'clock." So at five o'clock I take these men and Moses and the Japanee, send out on the steam launch. I told Moses, "I'll check you fellows in the evening."

Q. Then the number of hours that you have done in this book was for work done on the "Celtic Chief"?

A. On the ship some of it, but on Tuesday we went ashore here discharging some cargo.

Mr. WARREN.—Then your Honor reserves your ruling as to that?

The COURT.—Yes. Of course, I don't know what the other side will put in to corroborate or show fully the situation.

Mr. WARREN.—Five o'clock when?

A. Monday.

Q. What?

A. Monday, Monday evening. [1506—671]

Q. After the men had come ashore?

A. No, the men didn't come ashore that time. They was all on board there Monday.

The COURT.—Did you get the time of these men who were under Mason and under Moses only Tuesday afternoon?

A. I got the most of it on the three pages. All Moses on here, Moses Japanee.

Mr. WEAVER.—Page 13 in the book?

A. I put this three Japanee, this Japanee and Moses in between.

(Testimony of Richard Clarke.)

The COURT.—Did Mason and the Japanese take the time of their men every day?

A. Yes, one day.

Q. Now, the other days you have yourself?

A. I have from Tom.

Mr. WEAVER.—Tuesday and Wednesday?

A. Tuesday and Wednesday.

Mr. WARREN.—What about Thursday?

A. Oh, Moses was working on Thursday.

Q. What was he doing?

A. Shifting around gear.

Q. On Miller's dock?

A. No, on Hackfeld dock.

Q. Shifting what gear around?

A. They was working on the dock cleaning up.

Q. Cleaning up the dock? A. Yes.

Mr. WARREN.—I think the motion to strike from the record the testimony of this man on Thursday is proper, it not appearing that that work was for the "Celtic Chief."

The COURT.—I don't think that should go out unless it is clear that it wasn't part of the "Celtic Chief" work.

I'll ask the question with regard to that Thursday work; what do you refer to? A. Thursday.

Q. On the Hackfeld dock?

A. It was cleared. All [1507—672] those fertilizer was taken down, had some bags broken and some of our ropes was on the dock. We shift it on the "Makee," put it all in place so we give them a day.

Q. What fertilizer did this have reference to?

(Testimony of Richard Clarke.)

A. The fertilizer what we got at the "Celtic Chief."

Q. And the ropes and tackles, you refer to what ropes and tackles? A. All of ours.

Q. That's all.

Mr. WEAVER.—Q. Was any other work done for the "Celtic Chief" after Thursday?

Mr. OLSON.—I object to the question on the ground it is improper redirect.

Mr. WEAVER.—Withdraw the question.

The COURT.—Objection is sustained.

Q. Did you have anything to do with keeping track of the crews of the other vessels? You had your gang on the "Celtic Chief"? Did you have anything to do with the crews of the "Kaimiloa," keeping track of that? A. What—that evening?

Q. Any time during Monday, Tuesday or Wednesday.

A. Only one day they worked that day eight hours.

Q. Did you keep track of the crew of the "Kaimiloa" at any time?

A. Not during the day, because I take the time at five o'clock, the overtime.

Q. In this list of yours did you include any of the crew working on the other steamers of the Miller Salvage Co.? A. I don't know any of the crew.

Q. Did you include in your list the crews of the steamers of the Miller Salvage Co.?

A. I had the salvage boys with me.

Q. Did you have account of the crew of the "James Makee"?

A. They went out, three Japanee when on him.
[1508—673]

(Testimony of Richard Clarke.)

Q. Is that all? A. And two native boy.

Q. Were there any other steamers on the Salvage Co.? A. The "Concord."

Q. You have the crew of the "Concord"?

A. I had all my boy.

Q. The "Kaimiloa," "Concord," and "Makee"?

A. And "Makee."

Q. Did you have those crews?

A. I had all the boys.

Q. Did any of those steamers have any engineer?

A. I don't think so because they had closed down the steam.

Q. Did the "Kaimiloa" close down her steam?

A. The "Kaimiloa" got no steam.

Q. Did the "James Makee" have any steam?

A. Towed out in the steam launch.

Q. Do you know whether or not there were any other steamers or power boats there working for the Salvage Co.? A. Not for Miller.

Q. Did you have any launches around there *belong* to Miller Salvage Co.? A. Just one launch.

Q. What's that?

A. I don't know her name. That launch the biggest launch her and Frank is running it.

Q. Do you know a launch by the name of "Elizabeth"?

A. That is the "Elizabeth." That is the big launch.

Q. Do you know Lonecke? A. Frank.

Q. Frank Lonecke or Frank? A. I know Frank.

Q. Was he working on there? A. Yes.

Q. Who was he working for, do you know?

(Testimony of Richard Clarke.)

A. Working for Miller.

Q. What was he doing?

A. Running the steam launch.

Q. What launch?

A. The launch he had. I don't know the name, the one who towed us in. [1509—674]

Q. Do you know the name of that? A. No.

Q. Did you have him on your list, this Frank Loncke? A. No.

Q. Was there any officers of any on these vessels? Were there any officers or any of these on any of these vessels belonging to the Miller Salvage Co., if you know? The "James Makee" or any other? Do you know whether there were any officers on her at that time?

A. We didn't have no officers on the "James Makee."

Q. Or the "Kaimiloa"? A. "Kaimiloa."

Q. When you say that you had in your list all of the men working on the "Celtic Chief" did you intend that statement to be, to include every possible man that was working in any way, connected with the "Celtic Chief"?

A. That was working on the "Celtic Chief."

Q. Did you include any that worked away from the ship itself?

A. When we went ashore discharge we had the same crew as what we discharge on the "Celtic Chief."

Q. Did you include on that the men working on vessels of the Miller Salvage Co., but not on the "Celtic Chief" in that list? A. What's that?

(Testimony of Richard Clarke.)

Q. Did you include in that list men that were working on other vessels belonging to the Miller Salvage Co., but not actually engaged in lightering the "Celtic Chief"? A. All of our men was engaged.

Mr. OLSON.—The witness has testified, if the Court please, that there were no officers on the "Concord" and the "Kaimiloa" and that there were three Japs and a couple of native boys. When counsel refers to other boats do you mean the boats that were testified to. I object to that on the ground that it has been asked and answered.

Q. Did it include all those men? [1510—675]

A. Yes.

Mr. WEAVER.—I move that that question be stricken out.

Mr. OLSON.—I don't care to have it go into the record.

The COURT.—It may go out with the consent of counsel.

Mr. WEAVER.—Do you include in that list all of the men that were working in connection with the "Celtic Chief," either on the "Celtic Chief" or around it or in connection with any work about the "Celtic Chief"?

A. Working on discharging and rigging.

The COURT.—Aside from these men in that book that you had, were there any others working for the Miller Salvage Co., in connection with the "Celtic Chief"?

A. I saw them on the "Celtic Chief."

Q. I know, but were there any others that you didn't have on the time-book?

(Testimony of Richard Clarke.)

A. On the dock they had some different men than I had.

Q. On the dock there were some different men?

A. Yes.

Q. Do you know, was there any boss for these men, if you know? A. Vanatta.

Q. Vanatta? A. Vanatta; yes.

Q. Do you know how many men there were?

A. I don't have no idea.

Q. Were there any other men than those under Vanatta?

A. My men on shore; after they had that sleep that morning then we go ashore and work.

Q. Were there any other men on vessels of the Miller Salvage Co., other than those under Vanatta and under you?

Mr. WARREN.—I think, your Honor; that is going beyond the range of redirect.

The COURT.—I'll allow that.

Q. Ask the question. (Question read.)

The COURT.—Will you answer that question?

A. Sir? [1511—676]

The COURT.—Mr. Weaver asks you if there are any other men?

A. Some men works under Vanatta. I don't know how many men worked under Vanatta.

Mr. WEAVER.—I want now to introduce that book, your Honor.

The COURT.—That book may be received in evidence, make your offer, Mr. Weaver.

Mr. WEAVER.—I now offer in evidence book marked Time-book, produced by the witness, that

(Testimony of Richard Clarke.)

part thereof shown on pages 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, but excluding from page 14 the pencil memorandum written across the page.

Mr. OLSON.—I object to the offer on the ground it appears that the witness does not know whether or not all of these men who are in there are men who were working on the "Celtic Chief," the amount of the time they work and amount of money which he saw paid and which the book purports was paid for services performed on board the "Celtic Chief" or in connection with the "Celtic Chief," the "Celtic Chief" operations; furthermore, on the ground that the witness has excluded from the data included in the document offered in evidence concerning which he can testify to his own knowledge and that there are items there in which are based on hearsay only, and, therefore, the evidence offered is incompetent, irrelevant and immaterial.

Mr. WARREN.—I desire to make the same motion, your Honor, and particularly as to page 13 which, on his own testimony, is based on hearsay.

The COURT.—Isn't that admissible as testimony of who were paid off.

Mr. WARREN.—I will withdraw my particular reference to page 13 and make it general as to the whole book.

Mr. WEAVER.—What, if anything, what did you say with regard to Vanatta filling in names in this list?

A. He's got this list on his payroll.

Q. Are any of those names on this payroll and if so, what [1512—677] ones?

(Testimony of Richard Clarke.)

A. Henry Kia— this man wasn't working.

Q. You haven't got him?

A. No, but he's got him on the list.

Q. Then you refer to Kia on page 5. Were there any other names Vanatta had on his list?

A. Lokina, King, Moses, John Akule, William Kealoha.

Q. He had those three? A. Five.

Q. You have these names for a certain amount paid to them for that work?

A. They was working for me.

Q. What's Vanatta got to do with those?

A. When he works the time before me he had the men.

Q. Have you got in here Vanatta's time in your book?

A. I have got none of his time on my book, but I give him my book and he copy it down.

Q. How about these three Japanese on page 11, did you take their time yourself?

A. Yes, I take their time.

Q. You testified on cross-examination about the list, what does that refer to?

A. Moses and the Japanese.

Q. List on dirty paper, did you say?

A. Just on dirty paper.

Q. Does that refer to any of these items?

A. I put it down here.

Q. I asked you if you have the list on dirty paper, is correct of your own knowledge?

A. I take the name from that paper.

Q. Do you know that to be true, yourself, the list,

(Testimony of Richard Clarke.)

the time? A. I know the time.

Q. Do you know that those men worked that time?

A. I saw them.

Q. Do you know the men?

A. I know those Japanese.

Q. Do you know whether or not they worked that time? A. They working down there.

Q. Do you know of your own knowledge if that dirty paper was correct or not correct?

A. Was correct. [1513—678]

Q. What names? Any of this list?

A. Yes, Tom Mason.

Q. We take up the list up to page 12 and 13, any of those names include people that you don't know about and didn't take the time of yourself?

A. Some men in Vanatta's list you haven't got. All the men that been working with me I put the time down.

Q. Are there any men there that you put down you don't know what they had been doing?

A. I know what these men been doing so I put their time down.

Q. Now then, turn to page 13; do you, of your own knowledge, whether or not these men were working?

A. I saw them working out there.

Q. Do you know how long they were working?

A. Yes.

Q. Do you know how many men were working?

A. Nine men.

Q. Do you know that of your own knowledge?

A. I seen it.

Q. Had they been working under you or somebody

(Testimony of Richard Clarke.)

else? A. They was on the ——

Q. Under whom? A. Under Tom.

Q. Under Tom Mason? A. Tom Mason.

Q. And do you know whether or not they did that work yourself?

Q. Do you know whether they worked that time?

A. Eight and three-quarters when they left out there and come ashore.

Q. How do you know whether they worked eight and three-quarters. A. Tom told me.

Q. Do you know of your own knowledge?

A. Three-quarters of a day and eight hours.

Q. Do you know because he told you or do you know it of your own knowledge?

A. When I saw him coming in I told them "What time you got?" [1514—679] They left out there about two o'clock in the morning and comes in here three o'clock.

Mr. WEAVER.—Now I make the offer.

Mr. OLSON.—Same objection.

Mr. WARREN.—We renew the objection.

The COURT.—It seems to me that it comes through the course of business and you want to produce the best evidence on that point. At this time I will admit the time-book as to those men under Mr. Clarke, excepting the nine men under Mason, Mr. Mason's nine including himself.

Q. And with regard to the Japanese, I understood—did you get the Japanese time from what someone told you or Moses told you or did you see it yourself?

A. I see the Japanese working there.

Q. Did you get these figures from Moses or some-

(Testimony of Richard Clarke.)

one else? A. I put the figures in myself.

Q. Where did you get these?

A. I went on the "Makee" and I saw the Japanese working with me on the "Makee."

Mr. WARREN.—I'm willing to let it come in and segregate the proper items in view of the evidence.

The COURT.—With the reservation stated in the suggestion of Mr. Warren, I'll admit the book in evidence subject to striking out any portions later if not connected up.

Mr. OLSON.—At this time I'd like counsel to admit, Mr. Magoon and I have measured the distance from Beretania Street first to the lane next to the theatre down here concerning which the witness has testified. The distance from Beretania Street to the lane, the lane next to the theatre that's been referred to, I think it's Chaplain Lane, it's 225 feet; and the distance from Beretania Street to the Club Stables is 507 feet. We measured it with a tape line.

Mr. WEAVER.—On behalf of Miller Salvage Co., on Mr. Olson's statement, I admit that to be a fact.
[1515—680]

Mr. OLSON.—You make that admission, do you?

Mr. WARREN.—Yes, I make that admission.

The COURT.—With regard to Moses and his men, were you with them all day or pretty much of the time they were working?

A. Yes.

Q. Why did you mention Moses' men in a different class? You made a distinction between your men and Mason's men, and Moses' men. Mason's men you didn't know? A. Yes.

(Testimony of Richard Clarke.)

Q. Why did you go to get that from Moses?

A. I got those names from Moses.

Q. You only got the names from Moses?

A. Only the name.

Q. But the time you knew yourself?

Mr. WEAVER.—I think that's about all.

Monday, August 21, 1911.

[Testimony of Norman Watkins, for Libellant.]

Direct examination of NORMAN WATKINS, a witness called on behalf of Libellant Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—Q. What is your name?

A. Norman Watkins.

Q. What is your employment?

A. General Superintendent, Hawaiian Fertilizer Co., Ltd., Honolulu.

Q. Do you know to whom the cargo of the "Celtic Chief" was consigned on the voyage that reached here about December 6, 1909?

A. Consigned to the Hawaiian Fertilizer Co., Ltd.

Q. And do you know what that cargo consisted of?

A. I do. [1516—681]

Q. Will you state what it consisted of?

A. (Witness consults document.) 2547 tons, 13 cwt., two pounds of fertilizer of various kinds, and nine tons, 14 cwt., 12 pounds of general cargo consisting of 200 cases of brandy, 200 cases of whiskey, and five cases of marbles.

Q. And was this general cargo sent to the Fertilizer Co.?

A. Well, only as agents for the vessel.

Q. Who were the owners of it? To whom was it

1200 *The British Ship "Celtic Chief" et al. vs.*

(Testimony of Norman Watkins.)

sent? Principal owners?

A. The five cases of marbles were consigned to order, but the holder of the bill of lading was Hoffschaelger & Co.

Q. And in regard to the 200 cases of brandy?

A. One hundred cases of brandy was consigned to F. A. Schaefer & Co., one hundred cases of brandy to W. C. Peacock, two hundred cases of whiskey to W. C. Peacock rather.

Q. And the other cargo was consigned to the Fertilizer Co. for your own purposes? A. Yes, sir.

Q. What kind of fertilizer was that made up of?

A. Sulphate of potash, double manure salts.

Mr. OLSON.—Double what?

A. That's the trade name of this particular goods. It's a double salt of potash and magnesia and double sulphate of potash and magnesia, and the third material is known to the fertilizer trade as double superphosphate.

Q. Are they all of the same value or of different values? A. Different values.

Q. Did you loose any of this cargo by reason of the grounding of the "Celtic Chief"? A. We did.

Q. Then can you say what was rescued by the Miller Salvage Co.?

Mr. OLSON.—I object to the question on the ground it assumes it was rescued.

Q. Was any of this cargo taken out of the "Celtic Chief" by the Miller Salvage Co. or their agent, if you know?

A. There was a quantity of this cargo delivered or at least [1517—682] lightered by the Miller Sal-

(Testimony of Norman Watkins.)

vage Co. and landed and delivered at the Hackfeld wharf.

Q. And can you say what that was? How much it was in bulk, in weight?

A. 246 long tons, 1160 pounds.

Q. And what condition was that cargo when landed, if you know? A. Well.

Q. That 246 tons?

A. Some of it was in good order in original containers; some of it was in its original condition but in broken bags; some of it was in bulk; and some of it was a mixture of all three kinds of fertilizer that was on the ship.

Q. Now, what was—can you tell me the value of the cargo before the ship went on the reef at Honolulu?

Mr. OLSON.—You mean the fertilizer?

Mr. WEAVER.—Cargo in the ship before she went on the reef?

A. The cost of the Hawaiian Fertilizer was approximately \$111,000.00, which cost includes the freight because it was bought freight and insurance delivered at Honolulu.

Q. Does that include insurance?

A. That includes all costs.

Q. And what was the costs irrespective of freight and insurance, if you can give that from your notes?

A. The freight paid to the shipper on fertilizer was \$9,723.38.

Q. And insurance?

A. I couldn't give you the insurance because we simply know what the freight was, because we paid

(Testimony of Norman Watkins.)

the ship the freight at Honolulu and deducted it from our invoice.

Q. What was the value of that portion of the cargo salvaged by the Miller Salvage Co. included in that amount of 246 odd tons?

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant, and immaterial, unless the question is qualified so that it asks of the witness the value of the cargo in its condition as landed at the Hackfeld wharf. [1518—683]

Mr. WEAVER.—I'll add that to my question. In the condition in which that cargo was as it was landed at the Hackfeld wharf.

A. \$12,162.00.

Mr. OLSON.—That's in its damaged condition and everything taken into consideration.

Mr. WEAVER.—What was the value of the cargo of the first, do you know whether or not the cargo of the "Celtic Chief" which remained in the ship was damaged by reason of its grounding?

A. It was damaged to the extent that in the rough handling of the cargo that was discharged a great many of the bags were broken in the ship and there was more or less mixing of the three different lots. A great many bags were also damaged.

Q. Can you say what the value of the remaining cargo was landed by the "Celtic Chief" after she was pulled off the reef? You have given us the value as it stood before she ground. Have you any figures which would give me the value of the cargo except what had been landed by the Miller Salvage Co. and any cargo that may have been salvaged?

(Testimony of Norman Watkins.)

A. It's a matter of figures. I could figure it very quickly.

Q. Will you give us an estimate?

A. I wouldn't care to estimate it. I could figure it.

Q. Well, figure it, that's the same thing. Perhaps I can make it very simple by asking you another question. Was there any other cargo salvaged?

A. Do you mean lightered?

Q. Lightered, yes. Except that by the Miller Salvage Co.? A. There was.

Q. What was it and who salvaged it or lightered it?

A. There was lightered by the Inter-Island Steam Navigation Co. 365 long tons, 2,141 pounds.

Q. And what was the condition of that freight? What was done with it when lightered?

A. It was landed on the Inter-Island wharf.
[1519—684]

Q. Was it damaged any by reason of lightering?

A. Broken bags. Broken packages and the different ingredients mixed.

Q. Can you say what the value of that portion of the cargo was as in the condition it was at the wharf?

A. \$15,177.00.

Q. Now, will you tell us the value of the remaining portion of the cargo as landed in Honolulu after the "Celtic Chief" was pulled off?

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant, and immaterial. The only value with which the Court is concerned is the value of the cargo as it was in the ship.

Mr. WEAVER.—Withdraw the question. What

(Testimony of Norman Watkins.)

was the value of that cargo except what had been taken out, in the hole of the "Celtic Chief" beside the dock?

A. Your question, I presume, Judge, referred to the value of the fertilizer and not the other material.

Q. Yes, only the fertilizer.

A. \$82,220.00.

Mr. OLSON.—May I ask a question?

Mr. WEAVER.—Yes.

Mr. OLSON.—You've taken into consideration there the damage to the cargo and the value of that cargo in the hole of the vessel alongside of the dock before it has been discharged? That's its value?

A. In arriving at these figures I took the original value of the cargo which I gave as \$111,000.00. From that I deducted the value as given in my testimony of the two parcels landed by the Miller Salvage Co. and the Inter-Island, and I also deducted claim for damage that was passed on by the surveyors which surveyed the damaged cargo in the ship which amounted to \$1441.00.

Q. Do you know the value of that whiskey in the hole?

A. Well, I have—I don't have those figures with me, but [1520—685] acting as agents for the ship we had the sender sign a bond and I have a duplicate of that bond at my office, but I don't recall the value.

Q. Is that true of the brandy?

A. The same would apply to all the outside cargo. I'd like to amend my last answer.

Q. Very well.

A. In stating that value as given, \$82,220.00 would

(Testimony of Norman Watkins.)

include the freight.

Q. It does include the freight?

A. It's figured on the basis of the cost to the Hawaiian Fertilizer Co.

Mr. WEAVER.—That's all.

Cross-examination on behalf of Libellants Inter-Island Steam Navigation Company.

Mr. WARREN.—Q. This value that you've given is, as I understand, the cost to the Hawaiian Fertilizer Co.? A. Yes, sir.

Q. On what is this value based, Mr. Watkins? These values?

A. Those values are based on the cost to us, the contracts which I have in my hand here.

Q. Can you state whether or not that is the market value of fertilizer in Honolulu, of that kind?

A. Well, I should say that the cost of it would be about the market value and if you care for my explanation as to why it is about the market value, I will give it.

Q. Please.

A. I understand that the market value of that fertilizer or any fertilizer arriving in Honolulu, would be established by what it might bring at a sale, sold, say, at an auction sale. There are but two fertilizer companies here and the relations between the two companies are very friendly, and a vessel arriving here would have only two possible bidders and it would be [1521—686] bid in at a very low rate.

Q. That is if the cargo arrived for sale in Honolulu? A. Yes.

Q. Not ordered by either of these companies?

(Testimony of Norman Watkins.)

A. No, a vessel unsold.

Q. Now, is there an understanding between these two companies with respect to bidding for fertilizer?

A. There is no understanding. We have never had an opportunity to bid, but I said the relations between the two companies are very friendly, and the chances are that if a vessel were thrown on the market here that it would be sold for less than its cost perhaps.

Q. That is, these two companies would not bid against each other? A. I doubt if they would.

Q. And, in giving the value it seemed to be the fairest to all concerned to give the invoice value, that is, the cost to the Hawaiian Fertilizer. Then in giving the values which you have given us, you have not had reference to market quotations of fertilizer, have you?

Mr. OLSON.—I object to the question unless it appears that market quotations referred to in the question, rather market quotations in Honolulu, as market quotations at any other place are material.

I want to add to my question also, and furthermore unless it also appears that market quotations refers to market quotations in large quantities of fertilizer and not small parcels in few pounds or a couple of hundredweight.

The COURT.—I think I shall allow the question at this time and I so rule.

Q. What elements go into making up the market value of a cargo of fertilizer in Honolulu other than those to which you have testified already?

A. Well, I would assume that the value of cargo

(Testimony of Norman Watkins.)

in Honolulu, the basis of it would be its cost in Germany, where all potash [1522—687] used in the fertilizer trades originates, plus the cost of getting that here.

Q. Now, against the figure of value which you have given here you have given us the freight; that is, an item covering freight and insurance. Now, is there any other item which should be deducted from the item here?

A. Well, there would be lighterage charges at Hamburg and commissions for the concern that would buy potash for a Honolulu concern.

Q. Can you give us an idea of what the charges would amount to?

A. No, I cannot. As far as the fertilizer people are concerned on the Pacific Coast, the potash is all sold by one firm in San Francisco and the price in Germany is regulated by the Potash Syndicate.

Q. In Germany?

A. In Germany, and there's no—it would be no advantage to us to go trading around different places to try to get, buy potash cheaper. We give our orders to the Pacific Coast agent and take our medicine here. The price is up or down. That is the only place we can get potash from, one firm in San Francisco.

Q. Then, excluding those items of commissions, lightering, and so on in Germany, the cost of this cargo to you here, taking that first number, the cost of the cargo to you here would be the value you have given us less the transportation and insurance?

A. The cost to us is the established price of the

(Testimony of Norman Watkins.)

Syndicate plus the San Francisco agent's commissions and lighterage, insurance, and freight to Honolulu.

Q. You have been superintendent of the Fertilizer Co. for about nine years, ten years?

A. I've been with the Fertilizer Co. for over eleven years. I've been general superintendent for five years, I think.

Q. And you personally place the orders for these cargoes of fertilizer? A. Yes.

Q. And you keep in touch with the cost of fertilizer from [1523—688] the Coast?

A. I'll state here that prior to the time that the "Celtic Chief" cargo was purchased there had been no change in the basic price in potash in Germany for a number of years. It isn't a commodity that fluctuates. The Potash Syndicate established the price and that ends it. If you don't like the price, why, go elsewhere to buy and you find that you can't buy it.

Q. Then San Francisco is the only market that orders can be placed with for fertilizer?

A. Not for fertilizer; for potash.

Q. All of this cargo comes from Germany?

A. All of it did.

Q. This was all made up of potash?

A. No; there was two tons of double superphosphate.

Q. Where is that from?

A. That was shipped from Hamburg.

Q. With the other? A. In the same vessel.

Q. And how about the superphosphate?

(Testimony of Norman Watkins.)

A. Well, that's a commodity that the price does fluctuate some.

Q. Where's the market in which you place your orders for the commodity?

A. Well, in this particular case the order was given to the same parties that furnished the potash.

Q. The San Francisco house?

A. The San Francisco house?

Q. What is the name of that concern?

A. Myre-Wilson & Co.

Q. And you place all your fertilizer orders with them? A. All our orders for potash salts.

Q. And for the superphosphate also?

A. Double superphosphates? Why, we place those—I'd like to correct right here. It was one hundred tons of double superphosphate and not two hundred. We place our orders for double superphosphate through whatever agent may be loading [1524—689] a vessel for us. For instance, if it's a Hamburg vessel we're loading, our double superphosphate would be ordered through Myre-Wilson. If it was a cargo that we were loading in Scotland, the order would be given to the people that were buying the Scottish cargo for us.

Q. Then, to your mind, the market value of this cargo of superphosphates and fertilizers, classing them all as fertilizer, is the figure you have given? You call that the market value in Honolulu?

A. I think it is a fair market value. As I said before, if a party brought a shipload of potash to this port unsold, why, he'd find that the bottom had dropped out of the market and he'd get a very *low* from it.

(Testimony of Norman Watkins.)

Q. Any of the plantations buy in large quantities?

A. Not in that state; that's only the raw materials.

Q. None of them buy this raw material?

A. We don't sell in a year over two hundred pounds of that raw material. No, I'll qualify that and say not over one hundred pounds.

Q. And these different kinds of potash and so on are mixed by the Fertilizer Co. to make such products as the plantations call for for their individual use?

A. Exactly.

Q. There isn't any element of agreement or understanding between the two companies as to what is to be paid for fertilizer per ton? One is to buy from the other? A. Yes.

Q. What is that, please?

A. I haven't got the figures at this time but there is—we do have an agreement every year, at the beginning of each year where we stipulate between ourselves what we will pay to the other providing we are short.

Q. If they are short they can buy from the other at a stipulated rate per ton?

A. Yes. [1525—690]

Q. About what is that amount?

A. I couldn't state offhand what our arrangement was for that year.

Q. Does it vary with different years?

A. It varies; it has to vary because the price of potash varies. For instance, freight will vary oftentimes two or three dollars a ton. This particular ship was a very low charter, sixteen shillings. We have paid as high as twenty-six shillings for a vessel from Hamburg.

(Testimony of Norman Watkins.)

Q. Is there anything like a sliding scale for the price or is it fixed? A. It's fixed each year.

Q. That's based on fertilizer and freight rates as you estimate then?

A. It's based on our estimate of what they're going to cost in the ensuing year.

Q. Has that agreement anything to do with the market value in Honolulu?

A. I shouldn't think so.

Q. Approximately what is the rate for this year, for the year 1909?

Mr. OLSON.—Object to it; incompetent, irrelevant, and immaterial.

The COURT.—Objection sustained.

Mr. WARREN.—I'd like to be heard.

(Argument by counsel.)

The COURT.—Objection is sustained.

Q. Has the arrangement between the two companies, Mr. Watkins, as to the price to be paid, any bearing on the market value of the fertilizer, any relation to the market value of the fertilizer in Honolulu? A. I should say not.

Q. You don't think that could be taken as fixing the value in Honolulu?

A. No, for this reason. When we make an agreement say each year, we take into consideration the probable cost of the fertilizer for that year and then agree as to what we will make that exchange price. [1526—691] That's what we term it. That is, the fertilizer companies term it the exchange price. We work together in that way. One helps the other out when they're short.

(Testimony of Norman Watkins.)

Q. Would you say that two companies acting together in unity fix the market value of Honolulu?

A. No, we're absolutely, aside from the fact that our relations are friendly, we're as far apart in business as any two concerns in town.

Q. I understand any—withdraw that. You don't recall having testified in the Lock Garve case that these two companies fix the value at Honolulu?

A. I don't recall that I stated that they fixed the value of fertilizer.

Q. That you fixed the Honolulu market?

A. I don't see how the concerns here could fix the value of fertilizer in the Honolulu market.

Q. You don't remember having so testified in the Lock Garve case?

Mr. OLSON.—Now, I object, if the Court please, on the ground that Mr. Watkins is, in effect, Mr. Warren's witness.

Mr. WARREN.—Mr. Watkins, you represent the ship, do you not, in this case?

A. I'm the only person in Honolulu, outside of the ship's attorneys, that have any interest in the "Celtic Chief" matter.

Q. And the cargo? A. And cargo.

Q. On behalf of its owners?

A. On behalf of its owners.

Q. An agent on behalf of its owner as far as the ship is here represented? A. Yes.

The COURT.—Objection is overruled.

Mr. WARREN.—Then you do not recall that in the Lock Garve case you testified in effect that your company and the Pacific Guano Fertilizer Co. to-

(Testimony of Norman Watkins.)

gether fixed the Honolulu market and that this is by agreement under a contract between the two companies which fixed the rate for disposal of fertilizer [1527—692] between each other? You do not recall that?

A. It's quite possible that I so testified.

Q. You would not say now, then, that your two companies do fix it?

A. That fixed an exchange price, yes.

Q. That constitutes the Honolulu market, does it not?

Mr. OLSON.—Object to it on the ground that it's calling for a legal conclusion.

Q. Withdraw the question. What demand is there in Honolulu for raw material other than your two companies?

A. There's a great demand for the material such as the Lock Garve had.

Q. I asked you what is the demand for material that the "Celtic Chief" had?

A. I stated that so far as the company I represent is concerned we sell possibly one hundred pounds a year.

Q. Very small portion? A. Small portion.

Q. The large portion, the demand is necessarily between your two companies for this material in large quantities.

Mr. OLSON.—Object to the question on the ground that it assumes that the witness has testified to that, the witness having testified that this is simply an exchange price agreed by the companies for material when the companies should run short. I submit,

(Testimony of Norman Watkins.)

therefore, that the question is not only assuming something that is not in the record, but that it is also incompetent, irrelevant, and immaterial.

A. There is a big demand for the material that the "Lock Garve" landed here. There is a big demand outside the fertilizer company. The situation is entirely different. Most every plantation in the country buys raw nitrate of soda, uses it as a fertilizer, but they do not buy potash salts or double superphosphate.

Q. Do you remember, Mr. Watkins, in the "Lock Garve" case whether or not you testified that the value of the "Lock Garve" [1528—693] cargo was based upon the contract?

A. That is true.

Q. It was not the cost?

A. It was not the cost and the reason of it was the "Lock Garve" cargo cost, or the price that we bought the "Lock Garve" cargo at, was the highest price that was ever paid for a cargo of nitrate leaving Chile.

Q. Do you remember that price?

A. The price was—

Mr. WARREN.—I withdraw that question.

Q. So, in that case that rate between the two companies did fix the market value of the "Lock Garve" cargo?

A. Well, it was, to my mind, at that time it was a fair, a fair valuation of the market value, although at the same time that that testimony was given probably nitrate could have been bought at a cheaper price than the exchange price. The "Lock Garve" cargo

(Testimony of Norman Watkins.)

was bought at a time when the market was very high. In fact, as I have testified, higher than some years previous. Higher than it has ever been to my mind. That is, as far as my mind goes.

Q. In that case would you say that the market value was more or less than the rate which was agreed upon between the two companies for that year?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial.

Q. I'll ask another question, if your Honor please. In the "Lock Garve" case, Mr. Watkins, the contract rate between the two companies in that year was based upon market conditions?

A. Well, we can't determine the market conditions of nitrate as easily as we can potash because conditions are different inasmuch as the nitrate market is changing. In fact, we have a cargo now on the way, contract made not over thirty days apart and the prices are at least three dollars a ton different. The nitrate cargo is always changing while the [1529—694] potash cargo changes very seldom.

Q. I don't believe that quite answers my question whether or not that rate was fixed for that year as they then existed.

A. As they existed, as it appeared to us. We took a chance.

Q. Well, now, as to the contract between the companies for this year, what elements are taken into consideration in fixing that rate?

Mr. OLSON.—Which, the nitrate?

Q. All the cargo of the "Celtic Chief." You say that cargo then is easier to determine?

(Testimony of Norman Watkins.)

A. It's easy to determine because they do not have the fluctuations.

Q. And you take that into consideration in fixing this rate? A. We do.

Q. Can you look up that rate and let us know this year? For the year 1909, I mean?

A. I could.

Mr. OLSON.—I've already objected to that question once before on the ground it is incompetent, irrelevant and immaterial and your Honor has ruled that it is incompetent, irrelevant, and immaterial.

The COURT.—I agree with Mr. Olson that the thing is immaterial in general, he having testified that these prices would make up the market value to some extent but you can take that up in another way. I hold you are entitled to it on the matter of credibility, but doesn't show the market value to my mind.

Mr. OLSON.—That's the point exactly.

The COURT.—I sustain that objection.

Q. Is the valuation which you have placed on the cargo of the "Celtic Chief," in so far as the fertilizer is concerned, based in any way upon market quotations at the Coast, plus cost of transportation here?

A. The valuation is given by me is the cost of the cargo.

Q. Plus transportation?

A. According to our contract which I have here.
[1530—695]

Q. Now, do you know on what that cost is based to which you have referred or how that is fixed?

A. The basic price in Germany plus the buyers' commission, freights, and insurance, possibly lighter-

(Testimony of Norman Watkins.)

age charges in Hamburg or schooner transportation from the mines to Hamburg.

Q. Is Germany the only place where you can get sulphate?

A. It's the only market for sulphate of potash.

Q. And it's all controlled by the syndicate, you say?

A. All controlled by the Potash Syndicate.

Q. In giving the figure of the cargo of the "Celtic Chief"—

The COURT.—We will take a short recess.

Recess.

Q. Mr. Watkins, you gave us as the total amount of the fertilizer cargo, 2547 tons, 13 cwt., two pounds. Are those long tons or short tons? A. Long tons.

Q. And the tons of fertilizer which you received from the Inter-Island Co., short or long tons?

A. Long tons.

Q. And the Miller Salvage Co.? A. Long tons.

Q. Now, what factors did you take into consideration in putting the amount which you deducted for damage to the cargo which was received from the Inter-Island Co. and the Miller Salvage Co.?

A. Well, those factors were established by the surveyor or the appraiser who appraised the damage to the cargo. That was the amount of the claim that we presented and it was allowed.

Q. And that's the appraisement and not your own figures?

A. Those are taken from the appraiser's letter to the insurance people.

Q. That was the amount you claimed, however?

(Testimony of Norman Watkins.)

A. Well, we couldn't claim anything we didn't know.

Q. You asked to have it appraised?

A. We asked to have it appraised and we saw the amount that [1531—696] was put by the appraiser and we saw the amount after it was put by the appraiser, that is the amount we claimed for.

Q. The fact that the different kinds of fertilizer in this case got mixed did not destroy their value?

A. The value was there just the same.

Q. You mix them any way in your business?

A. Oh, they gave us a very peculiar mixture.

Q. Not such as are called for by any of the requisitions? A. Far from it.

Q. Can you give us the items of freight money and insurance separately? A. No, I cannot.

Q. Taking the whole sum paid the ship on the fertilizer for freight, that was \$9,723.38, was it?

A. \$9,725.38.

Q. Twenty-five? A. Twenty-five.

Q. And that is what you call freight money?

A. Well, that was the freight on the cargo; that is, on the fertilizer.

Q. And that was paid to the ship?

A. That was paid to the ship.

Q. Any of that covered by bills for expenses, ship's expenses? How was it paid?

A. Well, I'd like to withdraw my answer in that that was not paid to the ship. That was the amount that the ship earned on the fertilizer. As a matter of fact, the vessel had a very small cash balance due her when she left.

(Testimony of Norman Watkins.)

Q. To whom was it paid?

Mr. OLSON.—I object on the ground it is incompetent, irrelevant, and immaterial. It makes no difference to whom it was paid.

Mr. WARREN.—I don't care about the items. What I *was* to establish is whether or not that whole amount was not, in one way or another, the ship got credit for it either as payment for freight money or covered by bills proved by the [1532—697] ship's master.

A. The ship was \$9,762.64 of which the ship earned on the fertilizer she brought, \$9,725.38.

Q. The ship got credit for that?

A. That was credited to the ship, yes.

Q. That would be the difference between the amount, the total amount, \$9,762.64 and \$9,725.38, that would be for the remaining cargo?

A. Yes, on that brandy and whiskey and so forth.

Q. That would be the freight money for the remaining cargo. Have you yet received the general average bond which you sent for?

A. No, I understood it to be here.

Q. That's the only point I want to ask, to have the witness testify as to the value which he says he can do when he gets the general average bond so I might rest until that comes.

Cross-examination on Behalf of Libelee.

Mr. OLSON.—Q. Mr. Watkins, you have referred to the cargo of the "Lock Garve" in the course of the cross-examination by Mr. Warren. What did the cargo of the "Lock Garve" consist of?

A. Nitrate of soda.

(Testimony of Norman Watkins.)

Q. Was there any nitrate of soda on the "Celtic Chief"? A. None whatever.

Q. And the cargoes were entirely different except that they were fertilizer ingredients?

A. Absolutely different as far as material is concerned.

Q. Now, then, Mr. Watkins, you have testified that in the course of the year you are fairly certain that you do not sell directly to any, to customers, raw materials of the kind that were in the cargo of the "Celtic Chief" in a quantity exceeding a hundred tons.

A. No; our books would not show *an avery* as much as that.

Q. And it would be made up, would it, of a single pound here [1533—698] and there or a number of pounds?

A. It would be made up of several pounds. Perhaps twenty or thirty pounds, something like that.

Q. You are familiar with the general fertilizer and fertilizer ingredients used in Honolulu and in the Territory? A. I am.

Q. Could you state whether or not that would be a fair average of the amount of the raw material sold by the other fertilizer company?

Mr. WARREN.—I object to that as calling for a conclusion of this witness as to what the other company does.

Q. Knowing what you do of fertilizer?

A. Knowing what I do of the fertilizer business, I should say that the sales of that material by the other company would not exceed ours.

(Testimony of Norman Watkins.)

Q. Your statement of the damage to the fertilizer cargo as being the sum of \$1441.00, does that represent the damage to the entire cargo both that in the hold of the vessel after she was salvaged and what had been lightered by the Miller Salvage Co. and the Inter-Island? That's the entire damage to the whole cargo? A. Yes.

Q. The whole fertilizer cargo. There was no damage to the other cargo?

A. There were no claims made.

Mr. OLSON.—I think that's all. That's all, Mr. Watkins.

[Testimony of Moses Kakai Ekau, for Libelant.]

Direct examination of MOSES KAKAI EKAU, a witness called on behalf of libelant Miller Salvage Co., and sworn.

Mr. WEAVER.—Q. What is your name?

A. Moses Kakai Ekau.

Q. Did you see the "Celtic Chief" on the reef in Honolulu in 1909? A. Yes, sir.

Q. Do you remember what day of the week it was when you saw her? [1534—699]

A. Maybe it was on Monday. I don't know what date.

Q. You know the Miller Salvage Co.?

A. Yes, sir.

Q. Were you employed by the Miller Salvage Co. in December, 1909? A. Yes, sir.

Q. At the time this—were you employed at the time the "Celtic Chief" went on the reef by them?

A. Yes, sir.

(Testimony of Moses Kakai Ekau.)

Q. What were you doing on Monday?

A. Unloading cargo from the vessel on the schooner "Concord."

Q. From the "Celtic Chief" to the schooner "Concord"? A. Yes.

Q. And what were you doing in that matter?

A. What's that?

Q. What were you doing then? Unloading cargo? What kind of work were you doing?

A. We throwing the cargo from the schooner on the vessel.

Q. What were you doing yourself?

A. I was working.

Q. In the hole or what part? A. On deck.

Q. How long were you working there, then? First, who was your boss, if you had one?

A. Dick Clarke.

Q. And how long did you work there that morning?

A. I worked the whole day.

Q. Monday during daylight. Did you work after dark? A. Yes.

Q. How long? To what time?

A. They knock us off. Miller says, "No work no more."

Q. Where did you go?

A. We went on board the steamer.

Q. What? "The Concord"? A. Yes.

Q. What did you do then?

A. We wait till what Miller tell, give us—

[1535—700]

Q. After you quit work, what did you do?

(Testimony of Moses Kakai Ekau.)

A. We went ashore that morning.

Q. Did you work after that? A. Yes.

Q. What work?

A. We cleared the saltpeter laying on the deck of the schooner.

Q. That was what day of the week?

A. That was Monday, Monday night.

Q. Monday night? A. Yes.

Q. What day did you go to work?

A. No, this was Tuesday morning.

Q. What did you do before you went to work that morning clearing away? Did you have any rest that night? A. Yes, we rest couple of hours.

Q. Where? A. On the steamer.

Q. After you were clearing away this fertilizer or stuff what did you do next that day? A. Tuesday.

Q. Yes, Tuesday. Did you work at that all day?

A. I work Tuesday all day.

Q. Worked at clearing away the fertilizer?

A. Yes, on "Kaimiloa."

Q. What else did you do? Anything else that day.

A. I worked the saltpeter.

Q. Tell us what you did all day Tuesday and Tuesday night.

A. We load the two, we load the "Kaimiloa" too and we went ashore.

Q. And what did you do when you went ashore?

A. Unload the cargo from the schooner.

Q. Unload the cargo from the schooner on to the shore? A. On the dock, yes.

Q. What dock? A. Hackfeld.

Q. Then what did you do?

(Testimony of Moses Kakai Ekau.)

A. We had breakfast that morning and start again at seven o'clock and that afternoon we take the gear on the boat. [1536—701]

Q. What day of the week was that—Tuesday or Monday or Wednesday?

A. This is on Wednesday.

Q. Took the gear on board when?

A. On Wednesday we took the gear on board the "Makee."

Q. Then what did you do? How many days had you been working on the fertilizer before you took the cargo, tok this anchor on to the "James Makee"?

A. Two days.

Q. What had you—what did you do when you got the anchor on board?

A. We went out that evening, went out to set the anchor down.

Q. Went out that evening to set the anchor down?

A. Yes.

Q. What did you do that evening or what was done when you were there?

A. We never done anything that evening. Only we try to run a surf line aboard the "Makee" to the stern of that vessel.

Q. Did you do it? A. Yes, we do it.

Q. Ran a surf line? A. Run a surf line.

Q. Then what was done?

Q. And the "Mokolii" come back from the stern of that vessel to "James Makee" where we was anchored and he told the Captain Miller—

Q. Don't say what was said but just say what you saw. What you see—the "Kaimiloa" came back?

(Testimony of Moses Kakai Ekau.)

A. Come and tell Captain Miller.

Q. Don't say what he said. What did you see? What was done? Came back? What did she do? What was done? Was anything done about the surf line?

A. They don't want to put the surf line on the boat.

Q. Don't put on the boat?

A. No, they don't allow it.

Q. Where was the "James Makee"? What did the "James Makee" do that night?

A. We don't do anything. We anchor right there until in the morning. [1537—702]

Q. And what did you do that night?

A. Oh, we take a rest that night.

Q. What did you do next day?

A. Next day we went between the "Mikahala" and the two boats to set the anchor.

Q. How far—where was that with regard to the "Celtic Chief," what direction?

A. On the Waikiki side of the stern.

Q. I can't remember, what direction is that stern?

A. Yes, on the Waikiki of the stern of the vessel, between the two vessels.

Q. On the Waikiki side of the "Celtic Chief" and the stern of it? A. Yes.

Q. How far away from the "Celtic Chief" were you when you went there?

A. As far as from here, Nuuanu, what I know.

Q. About from here to Nuuanu? What did you do when you got that position?

A. We drop the anchor right there and we take

(Testimony of Moses Kakai Ekau.)

our line to the stern of the vessel.

Q. What anchor right there do you mean?

A. You mean what anchor we dropped down?

Q. Yes.

A. That big anchor, that anchor we used to pull with.

Q. Can you say more particularly what line from the ship was that anchor when it was dropped? What direction was it from the direction of the "Celtic Chief"? You know the "Celtic Chief" has a bow and a stern and the line drawn down the keel gives the direction of the boat. Where was the Miller Salvage anchor from that line?

A. The boat was laying ashore this way straight in and the line from the stern of that vessel is direction that way, between the towboat and the "Mikahala."

Q. I'm not asking—

Mr. OLSON.—I'd like to have the Reporter note of record that [1538—703] the witness indicates that the anchor-line was on an angle on the starboard quarter of the "Celtic Chief."

Mr. WEAVER.—I'd better find out what he means. You were on the "James Makee" when she laid down that anchor, were you? A. Yes.

Q. Now, when you looked from the "James Makee" at the "Celtic Chief," tell me where the "James Makee" was from a line drawn right down the whole length of the "Celtic Chief." Suppose you take a straight line, fore and aft on the "Celtic Chief," where were you on that line?

Mr. OLSON.—Object to it as leading.

Mr. WEAVER.—I'll change that. Suppose you

(Testimony of Moses Kakai Ekau.)

were standing on the "James Makee," you were standing there, where were you from a line drawn down the "Celtic Chief" and continued way out?

A. I can't understand.

Q. You tell me where the "James Makee" was from the "Celtic Chief" then, what direction?

A. On the Waikiki side of the stern.

Q. On the Waikiki side? How much that way?

A. Ain't very far from the straight line.

Q. Not very far from the straight line. Well, when you dropped the anchor what did you do next?

A. We sent our line on the vessel.

Q. Yes.

A. And we divided half to go on the vessel to right our gears up and half on board the "Makee."

Q. What happened to you?

A. I went on board to rig the gear with Tom Mason.

Q. You went to rig the gear with Tom Mason?

A. Yes.

Q. After you were rigging the gear with Tom Mason, did you do anything else but that?

A. We rigged the gear all day, the whole afternoon, and we heave it, we heave it with the capstan to take our slacks in. That's all we [1539—704] do that afternoon.

Q. What time did you begin heaving? What time of day?

A. Sometime in the afternoon. I don't know what time.

Q. What was your boss?

A. Dick—Dick Clarke.

(Testimony of Moses Kakai Ekau.)

Q. Dick Clarke? A. Yes, sir.

Q. You began heaving; when you began heaving what were you doing?

A. Sometimes I walk up the capstan, sometimes I watch the block and tackle on deck.

Q. And what time of day was it when you began heaving with the capstan?

Mr. STANLEY.—Already testified to; asked and answered, if the Court please.

Mr. WEAVER.—With regard to daylight?

A. It was daylight.

Q. How long before dark?

A. I don't know that; can't tell how long.

Q. Were you already heaving? What were you doing when they began heaving? Tell what you did after that, what your work was.

A. While was heaving Dick tell me to watch the tackle and he take off the launch and we don't have no dinner and so I stayed on board to heave the slack. Sometimes I went forward on the forecastle to help heave the capstan; sometimes I went look the tackle how or tackles are. That's all what I do before dark.

Q. How long were you engaged in this job, in this work?

A. From the time we start in to work Monday till the boat came off the reef.

Q. You were speaking of working on the tackle and capstan. How long did you keep that up, you yourself?

A. Six o'clock I went and have my lunch.

Q. After you had your lunch, what did you do?

A. We all come back on the vessel.

(Testimony of Moses Kakai Ekau.)

Q. On the "Celtic Chief"? A. Yes.

Q. What did you do then?

A. We heaving and I do the [1540—705] same work as I done the first time.

Q. And how long did that keep up? How long did you continue this work?

A. I got no watch that time. I don't know how long.

Q. Well, what happened next after you were working here? Did anything happen at all. You are not working there yet; what did you do?

A. What?

Q. You are not working there yet? Tell us what you did after you started with this job.

A. We keep on heaving, heaving until we heard a sound. We heard a sound like a bumping down, the ship was bumping down the rocks, the bottom.

Mr. WEAVER.—Ask that the record show the witness indicates his hand this way, hammering down.

The COURT.—I think that better not go in.

Q. What was the motion—this sound you heard, what was it? Tell us about it. What was this sound you described?

A. What I know is when the waves come up you know the ship come down while we was heaving. I think it's the ship trying to move out, coming out. It sound the same way.

Q. Describe the sound. A. Kind of a drag.

Q. While you were heaving you heard a sound. Can you tell what the sound was? Give an idea. You have only said there was a sound so far. Can

(Testimony of Moses Kakai Ekau.)

you tell anything about this sound, kind of sound it was? A. I don't understand.

Q. Can you tell what was the feeling of this to you, what was the feeling of this motion to you that you have described by up and down?

A. Feels like the ship was moving. That's what I feel. Like dragging.

Q. You thought she was dragging? How long did that motion continue from the time she started?

A. Oh, ain't very long. Kind of a drag, then stop for a while. [1541—706]

Q. How long did that state of things continue? How long did that keep up? A. Ain't very long.

Q. Can you give an idea what time—five minutes, ten minutes, half a minute?

A. Ain't much as five minutes.

Q. Not as much as five minutes? A. No.

Q. Was it one minute?

A. Might be between one.

Q. Was it over a minute?

A. Yes, over a minute, but ain't more than five minute.

Q. And what was the—at this time, did you notice the sea, how the sea was acting?

A. Kind of swell in it. I don't know anything.

Q. That's —

A. Kind of swell while the tide was coming up.

Q. How big a swell was it, do you know?

A. I don't know how big.

Q. At this time you heard this sound what was the condition of the Miller tackles—that is, the tackles you were looking at? A. Was tight.

(Testimony of Moses Kakai Ekau.)

Q. At the time you heard this sound and felt this motion, did you or did you not, notice the tackles yourself?

A. Yes, I did. I see same time I heard that sound the tackle was kind of slack.

Q. Well, what happened to them then?

A. Keep them coming on little faster then too.

Q. Who kept them coming on?

A. The capstan, the men on the capstan.

Q. Tell us more clearly what you mean by that, the men on the capstan kept them coming on. What did you mean?

A. I mean when we heard, when I heard that sound we jerk the line and see the slack, the tackles coming on, and I see the men coming little faster [1542—707] than what they done before while they working before because they was all going slow and stop—can't heave taut every time.

Q. They went faster. What effect, if any, had this on the tackle and the hawser when these men on the capstan went faster? A. What?

Q. What did that do to the hawser when the men went faster at the capstan?

A. That hawse line of ours coming in, coming in the vessel.

Q. The hawser came in? Was it after these men hastened their work? Was the hawser slack or taut?

A. At first the hawse line was taut.

Q. At first?

A. At first, and when this drag come in then the hawse line come in slack.

Q. Then what was after that?

(Testimony of Moses Kakai Ekau.)

A. After that, while I was watching that rope, we keep on heaving but we done the same as we did before, ain't going very far—very fast, I mean.

Q. When these men were hurrying up on the capstan, what was the condition of that hawser and the tackles after that? You said they were slack?

A. Yes, we take in the slack.

Q. Took in the slack. And after you took in the slack, what did the hawser and tackle look like?

A. Taut.

Q. What did you do after that? What did the men do after they tautened it up?

A. They watched the rope.

Q. Did they do any work?

A. No, we watched the rope.

Q. Did the men at the capstan do any work?

A. When we take in the slack?

Q. After the slack came in.

A. We holding the bars.

Q. Were they working? A. They working.

Q. What were they doing?

Mr. OLSON.—I submit this is asked and answered several times. [1543—708]

Q. When you said that those men were standing at the capstan holding the bars, what did you mean by that?

A. I mean while they was standing over there they were holding the bar and waiting for the order from Tom Mason.

Q. Were they doing anything else but waiting?

A. Just waiting; that's all.

Q. Was there any work done by any of them, if

(Testimony of Moses Kakai Ekau.)

you know—where *were at* that time?

A. I was on deck.

Q. Where was this capstan?

A. On the forecastle.

Q. Were you there?

A. No, I was on the main hatch.

Q. Were you, at any time, up there during this time that you speak of? A. Yes.

Q. You were up there?

A. Yes, part of the time.

Q. Then, while you were up there, did you or did you not see any of these men doing any work?

A. I did see them do work.

Q. What were they doing?

A. At first I see them working on the capstan, at last we take that I said. At first they stand at the capstan and hold the bar get ready for another order come in.

Q. Can you say what you mean when you say the slack come in?

Mr. OLSON.—Object to that as calling for a conclusion of the witness.

Q. What was the—was there any motion of the vessel at that time? Any motion of this “Celtic Chief” at the time they were waiting?

A. While we was waiting?

Q. While you were waiting for Tom Mason to give an order was there any motion of the vessel at that time? A. No, not that time.

Q. Was there any motion of the vessel before this, at the time you found the tackles loose and began heaving in before this? A. Before we heave?

(Testimony of Moses Kakai Ekau.)

Q. You say you saw the tackles slack up and you began heaving [1544—709] quicker, was there any motion? A. Was there any motion?

Q. You spoke of the pounding of this vessel up and down. How long did that continue?

Mr. OLSON.—I submit that has been asked and answered.

Q. Was there any motion of that vessel after this special time you speak of? You remember you spoke of a bumping motion?

A. After that I don't know about how long, but after that time, Tom Mason call us, called me to call the men working on the capstan to heave it easy after that time, after those fellow was waiting for the order and Tom Mason call me to call these men to heave it in easy and so they keep heaving the capstan.

Mr. WEAVER.—Wait a minute.

Mr. OLSON.—Let him go on.

Mr. WEAVER.—Go on.

A. And while we was heaving easy the capstan, it ain't very long, I don't know how many hours, about a couple hours, I think, I think about an hour we hear a kind of a hit, we feel a kind of a hit and Tom Mason told me to tell them boys to heave it little faster, so we did, and the ship kind of jump about at first. First time that make that bumping, first slack line, we keep on heaving every time on this capstan, and the second jump that's the time I heard a officer from the German boat. I *don't* what boat. They calling to two sailors. They was standing with a signal light. I don't know what the sky-rocket to give the signal. It was on the second jump and the

(Testimony of Moses Kakai Ekau.)

signal was shot and after that our block *block* fall down and everything slack and the boys was holler, "There the ship goes out," and the ship goes out and I was looking the blocks. I don't pay attention to looking on the side and Miller was calling us to cut the line.

The COURT.—May I ask you, when these men were [1545—710] standing with the hands on the capstan, what was their position?

A. Was tending the capstan.

Q. Were they holding it here or standing there?

A. They keeping that slack because the capstan always jump back, always hauling up.

Recess.

Mr. WEAVER.—When you said, you said that the men were standing at the capstan holding on to these bars prevented the capstan coming back?

Mr. OLSON.—I object to the question on the ground it assumes something not in evidence.

The COURT.—Objection sustained.

Q. What do you mean by keeping that slack always holding up? A. What do I mean by it?

Q. Yes.

A. They keep that so it help to hold the slack. You know, instead of the capstan coming back all the time you see it's keeping holding up the slack.

Q. Do you know what condition was the rope in that time, leading to the anchor? Do you understand what I mean, what I say? What condition was this hawser or rope to the anchor at that time?

A. I can't understand what you mean.

Q. You say that you were keeping the slack up;

(Testimony of Moses Kakai Ekau.)

what do you mean by that?

A. Tightening the rope all the time.

Q. When you refer to rope, what rope do you mean? A. That hawse line.

Q. Going to what place?

A. Going down to the stern.

Q. Going down to the anchor?

A. Yes, going down the anchor.

Q. You said they were waiting for the order of Tom Mason; did he give any order after that or not?

A. Yes, he called us to heave. [1546—711]

Q. How long did they continue that way before the order came?

A. I don't know how long. It ain't very long.

Q. When he gave the order, heave in easy, what was done?

A. The boys keep heaving the capstan easy.

Q. How do you heave the capstan?

A. They push the bar.

Q. Pushed the bar. What did they do?

A. Well, they walk around.

Q. How long did this go on? How long did they work that way?

A. They worked a little bit at first; stop and then start again and stop.

Q. How long did that continue before there was any change in the way they worked?

A. There was no change to the boat which I saw.

Q. If there was no change to the boat, how long was it after this order up to the time the boat again moved?

A. I don't know how long; it's quite a long time.

(Testimony of Moses Kakai Ekau.)

Q. Quite a long time? A. Yes.

Q. All this time were the boys heaving just like they started?

Mr. OLSON.—Object to the question on the ground it is leading.

Q. You say that the boys were heaving, say, now, between the time they started to heave and the time the boat came off. Was there any difference in the way they worked? If so, what?

A. I heard before the boat coming out, I heard them hollering.

Q. What were they saying?

A. Hollering, "She come off! She come off!" in native.

Q. What were they doing?

A. They run around and I see the rope come in slack and the block drop down with the hawse line.

Q. What tackle?

A. The tackle we hook in the shackle in that big hawse line.

Q. That's the main tackle?

A. Main tackle; yes. [1547—712]

Q. Could you see the hawse line itself?

A. Hawse line was shackled to this block. I could see it.

Q. What was the condition of that with regard to the sea?

A. When the boys start to holler, the hawse line was slack and the block dropped right down.

Q. Now, you've told us about a noise or feeling about the vessel; when was that noise or that feeling with regard to the time the boys began to shout?

(Testimony of Moses Kakai Ekau.)

A. When the boys start to shout and the same time we feel the boat dragging down the bottom.

Q. Did you see any signals on her about that time?

A. I see first red light that was on the mainmast.

Q. Any other signals about that time?

A. Well, they had firecracker.

Q. Firecracker? A. Yes.

Q. Describe it. What kind of signal was it? You say firecracker. In your own words, tell us what it was.

Mr. OLSON.—I object to the question, if the Court please, on the ground it is cumulative.

Q. Do you mean the fireworks, the rocket signals?

A. Yes.

Q. Now, which came first in point of time, the rocket signals or this sound of the moving of the vessel off?

A. The sound first. The sound moving the vessel first before they fire that signal.

Q. Now, you spoke of the feeling. Did that come first or the rockets?

A. That one come first before they fired that rocket.

Q. Do you know how long before?

A. It ain't very long. I got no time to look how long.

Q. Was it a long time or short time?

A. Short time.

Q. Minute or ten minutes or half an hour?

A. Not a half an hour. [1548—713]

Q. Was it more or less than a minute?

A. It's more than a minute because she was sounding down the bottom.

(Testimony of Moses Kakai Ekau.)

Q. Was it more or less than five minutes, say?

A. Might be less than five minutes.

Q. Was it more than two minutes?

A. I don't know about that time.

Mr. OLSON.—I object to the question on the ground it is leading.

Q. Did you—you referred to the red light, the second red light going up.

Mr. OLSON.—I object to the question on the ground it assumes something the witness has not testified to. He hasn't said anything about the second red light.

Mr. WARREN.—Same objection.

Q. You have spoken of the red light on the mainmast. Was there any other signals than these rockets you spoke of? A. There is another light.

Q. What was it? A. It was a red light.

Q. What was done about it? What about it?

A. They hoist it up.

Q. Right near the other light or where?

A. The same place where the other light was.

Q. On the main mast. And was this second red light hoisted up before or after the time you felt this motion of the boat coming off?

A. The ship was coming off that time.

Q. Coming on, did you say?

A. Going off of the reef.

Q. You spoke of the men on the capstan running around quickly. What happened then, after they were yelling as you say, "The ship's off! The ship's off!" and the boys hurrying around this capstan? What did they do next?

(Testimony of Moses Kakai Ekau.)

A. They leave the capstan, throw the rope off the capstan [1549—714] and they run on deck to help us. That time we was unhooking the shackles.

Q. What were you doing then? What were you doing that time?

A. We was working the same time.

Q. Where was the "Mikahala" at that time?

A. It was on the Waikiki side of the vessel.

Q. Was she or was she not attached to the "Celtic Chief"? Was there any connection between her and the "Celtic Chief" at that time? Was there any line between her and the "Celtic Chief" at that time?

A. When the boat had the line, all slack.

Q. Was there a line on or not?

A. She had a line on board.

Q. Before this "Celtic Chief" began to move as you speak of, the last time, did you or did you not notice the condition of this line to the "Mikahala"?

A. It was all slack.

Q. It was all slack?

A. The line was lying in the water.

Q. How slack? Was there a belly on it or no belly on it?

A. She was pulling. Sometime the line come up straight, sometime come right in the water.

Q. Sometime slack, sometime out of the water, sometime in the water? A. Sometime in the water.

Q. Did you see that line just before the vessel began to move off, the "Celtic Chief" began to move off seaward?

A. I see that line every time when we was pulling the slack while the boat was on the reef.

(Testimony of Moses Kakai Ekau.)

Q. Just that time before the "Celtic Chief" began to move off, did you notice that line on the "Mikahala"?

A. The line was slack; the same as the line wasn't on at all.

Q. Do you know where the line came aboard the "Celtic Chief"? Did you notice where the line came aboard the "Celtic Chief"?

A. What part of the ship?

Q. Yes.

A. On the right-hand side of the ship. [1550—715]

Q. Could you see from where you were whether or not there was any strain on that line there? Do you know what I mean by strain? Any pull on the line.

A. I seen like I told before, sometime slack, sometime taut.

Q. Could you see from where you were whether or not the "Mikahala" was doing anything or not?

A. I can't see because very far.

Q. Too dark?

A. Oh, too far. When I see just the slack of the line in the water and come up from the water. That's all I seen.

Q. Now, you said the "Celtic Chief" moved off a little sometime before this last time you spoke of. How do you know she moved?

A. By the way we was taking the slack in.

Q. Any other way?

A. And the sound we heard.

Q. Did you use any other means to find out whether

(Testimony of Moses Kakai Ekau.)

she was coming off or going on?

A. Yes, I had a sign, them lights at the harbor here.

Q. Sign or sight?

A. Yes, sir, sight. I sight two lights, one red and the other white. First time those two lights was straight and I measure, I sight that from the high rigging that second mast to the main mast; that is, before the main hatch, I mean the after hatch where I was standing. And that place was straight to these two light. I could see that two light. Before that red light is straight with the other light. After that, when we heard that sound, the red light was coming in all the time. You see, we had that sight, that's how I find out the ship was moving. By that sound I heard.

Q. That's the first time. After that, did you take any other sight?

A. That's only the sight I had, only the sight.

Q. That's the first time? A. First time; yes.

Q. Now then, did you take any sights after that then? [1551—716] A. No.

Q. The second time?

A. No, I didn't take no sights.

Q. What happened after the "Celtic Chief" came off? Do you know what was done with the "Celtic Chief"?

Mr. OLSON.—I submit, if the Court please, it is cumulative and object on that ground.

Mr. WARREN.—I'd like to say, your Honor, that that is an important part of the case, what happened when the ship did come off, and as far as being

(Testimony of Moses Kakai Ekau.)

cumulative is concerned, I certainly—

The COURT.—The mere fact—

Q. What was done with the “Celtic Chief” immediately after she came off, if you know?

A. She was pulling out.

Q. She was pulling out? What do you mean?

A. She was going out when we come off from the reef.

Q. What took her out, if anything?

Mr. OLSON.—Now, I object to that unless it appears from the question what counsel is referring to.

Q. After the “Celtic Chief” was floating, what took her away, if anything?

A. The boat, that “Arcona.”

Q. Do you know the “Mikahala”?

A. I can’t see the “Mikahala” no more. The time the boat gone out his line was cut.

Q. Whose line was cut? A. “Mikahala.”

Q. Well, can you say whether or not the “Mikahala” was doing any towing on that “Celtic Chief” then?

Mr. WARREN.—I object to that question unless it confined to that time.

Q. At that time and place.

Mr. OLSON.—I submit the question is incompetent, irrelevant, and immaterial and has no tendency to prove any of the issues in the case.

Q. At the time and place when the “Celtic Chief” was coming [1552—717] off the reef into deep water.

The COURT.—Answer the question.

Mr. WEAVER.—Did you hear the question?

(Testimony of Moses Kakai Ekau.)

A. Yes. When that line was cut he didn't do nothing, can't see him no more. He was away, not pulling.

Q. Before the line was cut what was the "Mikahala" doing, if anything, about the "Celtic Chief"?

A. Before the line cut?

Q. Yes.

A. Before the line cut what I told you before. The line was sometimes slack, sometime is taut, and when the boat come out well, everything all loose.

Q. Did you notice, at any time, whether or not the "Arcona" was doing any pulling before you felt this movement of the "Celtic Chief"?

A. I can't—

Mr. OLSON.—I object to the question. It is lead. What was the answer?

A. I can't see that line.

Mr. OLSON.—I withdraw my objection.

Mr. WEAVER.—That's all. Your witness.

Cross-examination of MOSES KEKAI EKAU on
Behalf of Libellee.

Mr. OLSON.—Q. Mr. Kekai Ekau, on Tuesday night you came out on the "James Makee" from the Hackfeld wharf. Did you have the anchor on board the "James Makee"?

A. Tuesday night?

Q. Yes, the day before she came off the reef, before the "Celtic Chief" came off the reef?

A. Yes; I came with the anchor on the "James Makee."

Q. That was the night before the "Celtic Chief" came off the reef? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. And when you came out there did Captain Miller drop that anchor? A. That same night?

Q. Yes, Tuesday night? A. No, sir.

Q. Kept it on the "James Makee," did he? [1553—718]

A. He was on the "James Makee" but he didn't drop that anchor that night.

Q. He kept the big anchor on the "James Makee" that night, did he?

A. Yes, he kept the big anchor on the "Makee."

Q. It was lying over the main hatch of the "James Makee," was it not? A. Yes.

Q. He kept it there all that night?

A. All that night.

Q. Didn't try to drop it that night?

A. No, he didn't try.

Q. But he did try to get a surf line on the "Celtic Chief"?

A. He tried to get a line on the stern of that vessel.

Q. What did he want to do that for? Withdraw the question. Do you know why Captain Miller wanted to put that surf line aboard the "Celtic Chief" that night?

A. He want to send that big hawse line on board to let us work that night.

Q. The big anchor line? A. Yes.

Q. So as to let you work that night?

A. Let us work that night.

Q. Work what?

A. Work that anchor. Drop that anchor to put our gears on board.

(Testimony of Moses Kakai Ekau.)

Q. Did you get that surf line on the "Celtic Chief" that night?

A. They sent the surf line but the Captain of that boat would not allow to put a line on the boat.

Q. Do you know why? A. I don't know why.

Q. You have no opinion? Have you no idea?

A. I only remember when the Captain came back and told to him, "The Captain on the 'Celtic Chief' don't allow to fetch our line on board."

Q. And so you didn't put it on that night?

A. No. [1554—719]

Q. You had no difficulty in getting that surf line aboard the "Celtic Chief" that night?

A. No *pilikia*.

Q. You could have done it?

A. We could put by our towboat.

Q. You could have put it on the "Celtic Chief" without any trouble? A. Sure, we could do it.

Q. And the weather was fine?

A. The weather not very fine but we could do the work.

Q. No sea running? A. No.

Q. Fine weather? A. Fine weather.

Q. And you could have gotten that line on board the "Celtic Chief" without any trouble at all?

A. Yes.

Q. Just where did the "Makee"—was the "Makee" lying?

A. Little bit on the Waikiki side on the straight line to the stern.

Q. It was quite a bit to the Waikiki side?

A. Yes, little further out.

(Testimony of Moses Kakai Ekau.)

Q. Do you mean Waikiki or Ewa? A. Ewa.

Q. It was on the port side?

A. I don't know port or not.

Q. It was on the left-hand side of the ship, wasn't it? A. Yes.

Q. Quite a ways off in the distance? A. Yes.

Q. Don't you know, as a matter of fact, Mr. Kekai Ekau, that Captain Miller did drop that big anchor that night way off on the port side and then tried to run a surf line on the "Celtic Chief"?

A. Let me listen to the question again.

Q. Don't you know that it's true and a matter of fact, that Captain Miller dropped the big anchor way off on the port side, on the Ewa side of the "Celtic Chief," Tuesday night, and then tried to get this surf line on the "Celtic Chief." Isn't that the fact? Can't you answer the question? [1555—720]

A. I know he went to put that surf line on the boat on the stern of that and got our hawse line ready. Then he knows where he want to put the anchor straight from the stern.

Q. Don't you know that the next morning there was about an hour and a half spent in getting the big anchor on the "James Makee" again? A. Yes.

Q. So the big anchor was dropped Tuesday night?

A. Ain't dropped Tuesday night.

Q. You sure of that? A. Sure of it.

Q. Isn't it true that the "Makee" moved next morning from this place? A. Yes.

Q. Clear over astern of the "Celtic Chief"?

A. Yes.

Q. She made a big change in her position, didn't

(Testimony of Moses Kakai Ekau.)

she, next morning? A. Yes.

Q. And dropped the anchor astern of the "Celtic Chief"? A. Yes.

Q. Didn't you go aboard the "Celtic Chief" with the surf line Wednesday morning?

A. Not me; the other fellow,

Q. Then you went aboard the "Celtic Chief"?

A. As soon as we got our orders.

Q. And you helped to heave the tackle on?

A. Yes, sir.

Q. Are you sure that during the time you were aboard the "Celtic Chief" that this big anchor wasn't out of the water? A. I can't say that.

Q. That big anchor might have been dropped sometime the night before when you didn't notice it? Tuesday night?

A. Can't understand the question.

Q. Isn't it possible that that big anchor might have been dropped?

A. The big anchor was on board the boat Tuesday night.

Q. You are sure it stayed there all night?

A. All night. [1556—721]

Q. Did you have any difficulty getting the line aboard the "Celtic Chief" next morning—Wednesday morning? Did you have any trouble getting the line on board? A. No trouble at all.

Q. Did the Captain of the ship object to taking it on board that morning? A. I didn't hear.

Q. While you were there aboard the "Celtic Chief"?

A. I didn't hear anything about it because he was with Miller.

United States
Circuit Court of Appeals
For the Ninth Circuit.

Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIM-
ITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee,

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant, Thereof,
Appellants,

vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee.

and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,

vs.

MATSON NAVIGATION COMPANY, a California Corpora-
tion, Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,

Appellee.

VOLUME IV.

(Pages 1249 to 1664, Inclusive.)

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for the Territory of Hawaii. D. Monckton,

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for the Territory of Hawaii.

(Testimony of Moses Kakai Ekau.)

Q. What time was it that you tried to run the surf line on the "Celtic Chief," Tuesday night?

A. It was evening.

Q. It wasn't dark night?

A. Ain't very dark. The sun was set.

Q. The sun was just setting, wasn't it?

A. The sun was set.

Q. About six o'clock? A. Very little after.

Q. Maybe little bit after maybe little before.

A. Little bit after.

Q. But the sun was just setting?

A. The sun was setting.

Q. Was it just setting? A. The sun was set.

Q. But it was still quite light?

A. Yes, still quite light.

Q. You could very well see what you were doing around there? A. Yes.

Q. There would have been no trouble in running an anchor that night? A. No.

Q. It would have been easy to lay that anchor that night? A. Yes.

Q. And you could have got the surf line on?

A. Yes.

Q. And you could pull the anchor line, the hawser on board the "Celtic Chief" that night?

A. We could do that Tuesday [1557—722] night without trouble.

Q. But you waited until next morning, Wednesday morning, to do that? A. Yes.

Q. Now, you say that you began heaving in first on the tackles with the capstan Tuesday afternoon—I mean Wednesday afternoon? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. Wednesday afternoon? A. Yes.

Q. Now, that's right, isn't it? A. Yes.

Q. And you worked there. All of you men worked, Tom Mason and the rest? You worked pretty late because you didn't have any time to get dinner, didn't you? A. Yes.

Q. You were busy getting the tackles fixed up and everything rigged? A. Yes.

Q. And when you get all through you hove them taut and then the boys went and had some lunch?

A. Yes.

Q. That was just a short time before sundown?

A. Before sunset.

Q. Oh, just a little before.

A. No, about an hour.

Q. Just about an hour before sunset, that was when you got the capstan working and got the line hove taut? A. Yes.

Q. That was about an hour before sunset on Wednesday? A. Yes.

Q. And then they kept it that way until you felt this first movement, the dragging of the "Celtic Chief"? A. Yes.

Q. Wednesday night? A. Wednesday night.

Q. That's right, is it? A. Yes.

Q. Now, when you first got this hove taut, you say you took in all the slack, didn't you? [1558—723]

A. Yes.

Q. And then you got her taut? A. Yes.

Q. And then some men were kept on that capstan to hold it in position? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. They couldn't do any pulling after that with the capstan?

A. They can't do nothing unless some slack, unless when they try to push them bars they find there's some slack coming in.

Q. Till they got the slack in?

A. Till the line taut. Every time little slack they can heave and stop every time they take it in.

Q. They did that first when they tried the tackles on Wednesday afternoon just about an hour before sunset? They took in the slack?

A. They took in the slack.

Q. Then they got it taut? A. Yes.

Q. Then they held it there?

A. They tried after little bit.

Q. Was there any slack until the time you felt the vessel drag? A. Not very much.

Q. Most of the time they were holding it?

A. Yes, ma'am. Keeping there to the time the time the boat coming out. The couldn't heave that capstan very much at all.

Q. Now, then, do you remember about what time it was that the "Celtic Chief" came off Wednesday night? A. Sometime—

Q. Eleven or twelve o'clock?

A. Between one and two, if I don't mistake.

Q. Well, it was morning, any way? A. Yes.

Q. And you felt this first jump or drag of the "Celtic Chief" about an hour, about an hour or so before?

A. About a couple of hours. That was when the first time that there was any slack for them to get in

(Testimony of Moses Kakai Ekau.)

with the [1559—724] capstan after they got it taut Wednesday afternoon.

Q. That was really the first time when they were able to get any slack?

A. They take in the slack when they could and the slack come in. They taking all the time.

Q. There was still some slack there?

A. The first time?

Q. The first time that she jumped?

A. Yes, the first time.

Q. Before that time the vessel hadn't moved off?

A. We still heaving in.

Q. But there wasn't any slack then?

A. No slack the first time before sunset.

Q. That's getting into position to get things ready?

A. That's getting into position to get things ready.

Q. Between those two times there hadn't been any slack?

A. Yes, we taking in slack every time, taking little by little.

Q. Well, was the vessel moving?

A. The vessel sounded, but we didn't know if moving or not.

Q. Wasn't it really the fact that between the time that you first got it tight Wednesday afternoon, just before sunset, and then from then on to the time she jumped this time, between those times, there were five or six hours? Weren't there five or six hours between the time that you felt it first time and time she jumped Wednesday night? Several hours?

A. Yes.

Q. Isn't that right? A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. You didn't feel any movement of the "Celtic Chief" between those times? A. No.

Q. There wasn't very much slack that anybody got in, was there? A. No.

Q. So that the capstan wasn't moving very much? [1560—725] A. Not moving very much.

Q. Very little? A. Very little.

Q. All of the men were working holding most of the time? A. Most of the time.

Q. How many bars are there in that capstan?

A. I forget how many bars. I can't tell.

Q. Let me refresh your memory a little bit. Weren't there about eight bars?

A. I think about that. As far as I know, ten men.

Q. That is part of the men kept on the capstan all the time?

A. Yes, because we were working them all the time.

Q. Were there more than one man to the bar, couple of men?

A. Couple of men to the bar? If I don't mistake there's three men on some bars.

Q. One or two men on some others? A. Yes.

Q. And you think there were about ten men most of the time? A. Yes.

Q. Did you notice how many there were on that at the time the "Celtic Chief" came off?

A. Plenty men that time.

Q. Ten or fifteen?

A. I can't make out how many men.

Q. Would you think as many as fifteen?

A. I think it's more than that.

(Testimony of Moses Kakai Ekau.)

Q. Fifteen or twenty? A. I don't know.

Q. You don't know?

A. As far as I know myself and the ten men on capstan, Tom Mason, and the boss and some other men beside, I can't remember.

Q. Very likely to be from ten to twenty?

A. Somewhere between that.

Q. Somewhere between ten and twenty; is that right? A. Something between that.

Q. Tom Mason and the boss. That's Dick Clarke, was it? A. Yes. [1561—726]

Q. And you? A. Yes.

Q. Were you working the capstan, too?

A. I working part of the time on the capstan and run around the deck to look the tackle.

Q. Tom Mason was there when that first jump happened, was he? A. He was on the poop.

Q. What did he do?

A. He was watching the line.

Q. Did he see the line go slack?

A. Yes, he could tell when the ship went out.

Q. Did he say so?

A. He called out—he says, "Heave it in," and the line was taut that time, the first time, because we keep taut all the time. When he said, "Heave in," the boys start to heave in and they start to holler, "She's coming off."

Q. That was the last time?

A. That was the last time.

Q. I mean the first time. Did Mason see that?

A. Yes, he was there.

(Testimony of Moses Kakai Ekau.)

Q. He saw it? A. He saw that.

Q. Where was he?

A. On the poop, because the line comes up on the poop.

Q. Did he call out that time?

A. When the slack?

Q. The second time, the first time?

A. I didn't hear what he called. I don't remember.

Q. Do you know whether he saw?

A. He saw that, but he didn't call.

Q. You do know Mason was on the poop?

A. He was there because I was on the main hatch.

Q. Don't you know that Mason was down there watching the tackles and doing some fleeting of the tackles? A. What?

Q. Don't you know that Mason had just gone forward on the poop, on the main deck, back where the last blocks were to fleet them?

A. Sometimes he come up there, [1561½—727] sometime he don't.

Q. Don't you know that he was down on the main deck ready to do some fleeting when the "Celtic Chief" came off? A. He was down there.

Q. Then he wasn't on the poop?

A. Most of the time on the poop.

Q. What was he doing up there?

A. He was up there watching the line.

Q. He wasn't working, then?

A. He wasn't working; he watching the line.

Q. Wasn't he down around the tackles most of the time, anywhere from the bow of the vessel back

(Testimony of Moses Kakai Ekau.)

to the last blocks?

A. He was down there sometime.

Q. Wasn't he there most of the time?

A. Most of the time, sometime.

Q. Wasn't he there most of the time?

A. Not really most, but sometime.

Q. Did you feel any bumping of the "Celtic Chief" before this first jump that you talk about? This is the first time that you felt this dragging of the "Celtic Chief"? Did you feel her bumping before that? A. The same time.

Q. Oh, that time. Was that the first time you felt any motion? A. Before that?

Q. Yes. A. The boat come up and down again.

Q. When was that?

A. That's before we get, when we get on the boat and fix everything.

Q. Monday? A. Yes, Monday.

Q. When you were discharging cargo?

A. Yes, we could hear that.

Q. But you didn't feel any of that on Wednesday?

A. We feel that sound kind of drag.

Q. I'm not asking you about that time. I say before that. That was about ten or eleven o'clock?

A. Yes, sir. [1562—728]

Q. I'm asking you before that time.

A. Yes, I feel it.

Q. When?

A. That afternoon, we fixing that tackle.

Q. She'd bump up and down?

A. She bumping up and down when the tide come up.

(Testimony of Moses Kakai Ekau.)

Q. Now, that was before you got the Miller tackle in shape and got it taut? A. Yes.

Q. After that she didn't bump any, did she?

A. No, she didn't bump like before.

Q. After they got the Miller line attached then she didn't bump until this first drag? A. Yes.

Q. Between those two times she didn't bump at all? A. No.

Q. No motion at all? A. No.

Q. Now, there was no dragging before the first bump, was there? That first jump that she made? No dragging between an hour before sundown and the time she gave this jump that you *you* spoke of?

A. I can't feel any dragging that time.

Q. You didn't feel anything at all in between them? Now, isn't it the fact that this time that you first felt her drag, Wednesday night, she came quite quickly quite a distance and then stopped?

A. The first drag I feel was those kind.

Q. You felt it drag along the bottom?

A. Drag along.

Q. And the tackles drop down?

A. Drop down and we keep heaving in.

Q. And you hove in? A. Yes.

Q. And it was all over?

A. No, after that time, the first drop down then he stopped.

Q. Then she stopped? A. Yes. [1563—729]

Q. Right then? A. Yes.

Q. And she didn't do anything more until she came off?

A. No, then we heave in our tackles. They were

(Testimony of Moses Kakai Eka.)

getting taut again; when that tackle taut again we keep on heaving, then she makes the second jump.

Q. Then about an hour later then second jump came and she came off? A. Came off.

Q. That's right now, is it? A. Yes.

Q. You wouldn't look at what the steamers were doing? A. No, I didn't.

Q. You didn't know at all what they were doing?

A. I only see the "Mikahala."

Q. You don't know what the "Arcona" was doing? A. No.

Q. Had no notion? A. I don't know.

Q. Didn't look over the sides of the vessel?

A. No.

Mr. OLSON.—That's all.

Cross-examination of MOSES KAKAI EKAU on
Behalf of Libelants Inter-Island Steam Navigation Co. and Matson Navigation Company.

Mr. WARREN.—Q. Do you know what steamers were pulling on the "Celtic Chief" Wednesday night? A. What?

Q. What steamers were pulling on the "Celtic Chief" Wednesday night?

A. I said before that "Arcona," the "Mikahala," the "Likelike," but I forget the other one.

Q. "Helene"?

A. I think it's the "Helene." I forget it. That's the boat, I remember.

Q. What?

A. That's the boat I remember. The "Mikahala," and the "Arcona," and the "Likelike."

Q. Was there another?

(Testimony of Moses Kakai Ekau.)

A. There was two other boat, but I forget their names. I didn't take very much, pay [1564—730] attention while I was working, looking this boats.

Q. You didn't pay any attention to any of the vessels that were out astern of the "Celtic Chief"?

A. No.

Q. You really didn't pay much attention to the "Mikahala"?

A. Yes, because it is fast to me.

Q. Fast to you? A. The line on fast to the boat.

Q. Where were they working?

A. On the right-hand side.

Q. On the Waikiki side? A. Waikiki.

Q. Did you go up on the poop at any time?

A. No.

Q. You didn't go on the poop at all?

A. I just go on the forecastle where the capstan is.

Q. Didn't go back to get up on the poop of the "Celtic Chief"?

A. Not while I was heaving.

Q. Did you go up there at all late Wednesday afternoon or night?

A. In the afternoon I go up there.

Q. What time in the afternoon?

A. I don't know.

Q. Before dark?

A. Before dark while we was fixing the tackle.

Q. That was before you got the Miller line taut?

A. Yes.

Q. After you got the Miller line taut, you didn't go up there? A. No.

Q. And all that you could observe of the vessels in the neighborhood was from the Waikiki side of the "Celtic Chief"?

A. Yes.

(Testimony of Moses Kakai Ekau.)

Q. And the "Mikahala" was the only one you could see?

A. Only the "Mikahala" the one I could see. It was right in front of my face when I was looking.

Q. How was it, then, that you told us that the Miller anchor line [1565—731] was taut Wednesday night when they were heaving?

A. I could see because the ye of that hawse line was inside near where I was standing.

Q. The what?

A. The place where we shackled the main block of ours to that hawse line was inside.

Q. Inside how. Forward of the poop?

A. Forward of the poop.

Q. That's the only part of the Miller line that you saw?

A. That's the only part I saw and the tackle was taut up. That's how I could tell.

Q. If the line was slack it would be down on the deck? A. Yes.

Q. How many times did it go down on the deck slack? A. I seen twice.

Q. Now, when you speak of taking up slack, every time that there was some slack they would take a turn on the capstan. That slack was such as was shown on the portion of the anchor line forward of the poop? A. Forward of the poop.

Q. That's where you would see the slack?

A. Yes.

Q. Could you see any slack in the ropes of your different blocks and tackles?

A. I could see every tackle was slack when they

(Testimony of Moses Kakai Ekau.)

take in because in the moment when they heave in I found out that was slack coming. That's how the tackles come.

Q. Whenever you saw any slack there would be the falling of the Miller line and tackle as you could see them and they would come up straight again?

A. Get them taut.

Q. Could you judge that there was slack to be taken up every time the line would sink a little bit from the deck of the "Celtic Chief"?

A. Yes, when the line all tackle would slacken in.

Q. All right. Watch for some sign of the line being slack, [1566—732] then you take another turn, pick up that slack?

A. I was watching the block because the end of the other tackles was up in the capstan. There was a different man there to take these slacks in.

Q. You were watching for slack?

A. Watching the block.

Q. As soon as you saw the blocks come down little bit then they pulled in again?

A. They pulled in; yes.

Q. And those blocks were down twice, I understand. Is that right? A. Yes.

Q. First jump and second jump?

A. Second jump when the boat came out. It's the last slack I seen.

Q. On those occasions they came clear down on the deck? A. Came on the deck.

Q. At other times would it move down just a little bit?

(Testimony of Moses Kakai Ekau.)

A. I could see a little more. Touched the deck first slack.

Q. That happened only twice? A. Yes, twice.

Q. First jump and second jump?

A. And second jump when the boat went out.

Q. Now, about the "Mikahala" line. Did you observe the "Mikahala" closely at all? Did you look at the "Mikahala" carefully?

A. I look sometime and sometime I watch my line I could see her line.

Q. You couldn't see any line?

A. I could see her line was in the chock.

Q. What chock was her line?

A. I don't know what chock is that, but the chock close to the poop on the other deck.

Q. On the other deck? A. Main deck, yes.

Q. On which side of the ship?

A. Waikiki side of the ship. [1567—733]

Q. How many lines did the "Mikahala" have?

A. What?

Q. Did the "Mikahala" have one or two lines?

A. I seen one line.

Q. Didn't you see whether or not the "Mikahala" had two lines running to the "Celtic Chief"?

A. I seen one line there.

Q. You never saw more than one line?

A. I never saw more than one line.

Q. At any time that day?

A. I didn't look before that, but at the time I was watching there was one.

Q. That's Wednesday afternoon?

A. Wednesday night.

(Testimony of Moses Kakai Ekau.)

Q. Could you see Wednesday night?

A. What?

Q. Was it light enough for you to see the lines Wednesday night? A. Yes, sir.

Q. How?

A. By the search-light of the cruiser.

Q. Did you go to the edge of the "Celtic Chief" at the rail and look over at the "Mikahala" lines?

A. I could see where I was standing because my head was above the rail.

Q. Your head was above the rail? A. Yes.

Q. Did you go up close to the rail?

A. No, I stand right on the deck, not close to the rail.

Q. You never went close to the rail to look at the "Mikahala" lines?

A. Not close to the rail but I could see the lines from the "Mikahala" to that sailing vessel.

Q. Where could you see it, over at the "Mikahala" or down at the "Celtic Chief?"

A. From the "Mikahala" down to the water.

Q. Did you see it come up on the "Celtic Chief" side?

A. I could see from the rail the line come right in the chock.

Q. Will you swear there was only one line on the "Celtic Chief?" [1568—734]

A. That's only one line I see.

Q. If there had been two of those lines you would have seen them, would you?

A. I would seen them.

(Testimony of Moses Kakai Ekau.)

Q. If there had been two you could have seen them?

A. I could see; it was plain.

Q. You could see all around? A. Yes.

Q. So if there had been two lines you could see both of them?

A. If she had two lines I could see two lines.

Q. But she didn't have two lines?

A. I seen one line. That's all I seen.

Q. How far away from the "Celtic Chief" was the "Mikahala? A. I don't know how far.

Q. About how far?

A. I can't name the distance.

Q. Would you say a hundred feet or a thousand feet or was it nearer?

A. I can't make out. It's quite far. Ain't very far from here down to Hotel.

Q. What Hotel? Hotel Street? A. Yes.

Q. You think that. That would be somewhere around a thousand feet?

A. I don't know. Might be a thousand feet from here down to there; I don't know.

Q. Do you know how big a line she had?

A. No, I didn't take notice.

Q. You didn't take any notice of the size of her lines? A. No.

Q. Do you know whether she was pulling or not?

A. I don't know, but I seen sometime her line she some up taut, sometime slack in the water. That's all I seen.

Q. Would it be up more than it would be down or how?

(Testimony of Moses Kakai Ekau.)

A. When the boat, the vessel, come up it got taut; when she come down, the line was slack down in the water. [1569—735]

Q. Where were you? A. I was right there.

Q. Where? A. On the deck.

Q. What part of the deck?

A. On Ewa side of the deck. I mean Waikiki side of the deck going forward.

Q. And all the time you were going forward and aft till the ship was coming off, the second jump?

A. No, I was by the tackle by our main block.

Q. When the blocks dropped the second time, where did you go? Were you right by the block when it dropped?

A. I was right there and the other people right too.

Q. What did you do as soon as it dropped the second time?

A. When everything dropped down and Tom call us to clear the block.

Q. Well, what did you do?

A. We ran around to clear the block with the other men.

Q. From where?

A. Right on that deck where that blocks was lying.

Q. What did you undo?

A. Just clear the block, take off.

Q. Unhook the shackle from the hawser?

A. No, from the other tackles. We can't do nothing.

Q. You unhooked all your blocks from that after lashing, is that right? A. From the main tackle.

Q. From the main tackle?

(Testimony of Moses Kakai Ekau.)

A. We had lots of small tackles when everything was dropped down every thing lost.

Q. What did you do—just cut it and unhooked the block?

A. We had some slack because our line was astern. We unhook. Tom Mason was on the poop ready to cut the line.

Q. What did you do? A. We was on the deck.

Q. What did you do?

A. We worked around with the other men on the deck.

Q. You stayed down there unshackling that block.

A. Unshackling that block, walking around and coil up some ropes [1570—736]

Q. Did you go up on the poop?

A. No, I didn't.

Q. You didn't go up there and look over the lines of any of the other vessels? A. No, I didn't.

Q. When was the "Mikahala" line cut?

A. When the boat was off.

Q. Before or after she was afloat?

A. When the boat come off, our line was slack, that's the time the line was cut.

Q. How do you know?

A. Because we know when the boat got out we can't see "Mikahala" alongside with us. If the line ain't cut she supposed to drag along the ship together. The line was cut. I didn't see the "Mikahala."

Q. When was it cut?

A. When the boat, when the ship come off from the reef.

(Testimony of Moses Kakai Ekau.)

Q. After she was, or while she was going off?

A. While she was going.

Q. How do you know?

A. Because we can't see her. We was on the ship and all the lines was loose.

Q. What direction of the "Mikahala" were you?

A. Right ahead.

Q. Ahead of you?

A. When the ship come off.

Q. What direction was she pointing?

A. First time she was pointing Waikiki.

Q. Square at Waikiki?

A. Not square; kind of going out to the land.

Q. Heading more toward Waikiki than she was before? A. What?

Q. She was heading more for Waikiki than she had been before? She wasn't heading for Waikiki so much during the afternoon, was she? A. No.

Q. When the "Celtic Chief" came off, did you see the [1571—737] "Mikahala" off the side?

A. Well, I could see the "Mikahala" going in that way while we was going on.

Q. You could see the "Mikahala" going in?

A. Because the ship was coming off.

Q. She was swung out going in?

A. She was at the same place, but this vessel I was on was coming out and the "Mikahala" was seeming like coming in.

Mr. OLSON.—Going opposite direction from you.

A. Yes.

Mr. WARREN.—She was heading opposite direction from you, was she? A. Yes, she was.

(Testimony of Moses Kakai Ekau.)

Q. You say the "Mikahala" was pointed toward Waikiki?

A. The first time, before the boat come until she was heading on Waikiki side, ain't very much on Waikiki—kind of slant farther from the line.

Q. How do you know what way she was headed at twelve o'clock that night when the ship came off?

A. We could see all the stern, where the stern would be.

Q. You saw the "Mikahala" stern? A. Yes.

Q. Where was the search-light then?

A. The search-light from that cruiser?

Q. Yes.

A. Was fastened to this boat all the time.

Q. Fastened to what boat?

A. To the sailing vessel.

Q. Was it fastened to the "Mikahala"?

A. Fastened all the boats out there because the light was throwing all this place we was working and I could see the "Mikahala" plain.

Q. When was the first time you noticed the "Mikahala" when the "Celtic Chief" was coming off when you got through fixing your tackles?

A. The time I seen? [1572—738] No. The time going out; we was going out.

Q. Did you see her line just before it was cut?

A. What?

Q. Did you see the "Mikahala" line before it was cut? A. I seen the "Mikahala" line.

Q. Just before it was cut?

A. Before the boat got out I seen her line. When the boat go out I can't see his line no more. Her line.

(Testimony of Moses Kakai Ekau.)

Q. Didn't you say that you couldn't really see whether the "Mikahala" was doing anything when the "Celtic Chief" came off? Could you?

A. When the "Celtic Chief" came off?

Q. Yes. A. I can't see what she doing.

Q. You really don't know what the "Mikahala" was doing when the "Celtic Chief" came off?

A. Yes, when that came off we look. The "Mikahala," I don't know what she doing.

Q. When were the lines of the other pulling vessels cut?

A. I don't look on the other side because most of the boats on the other side.

Q. Were the other lines cut?

A. I don't know if they cut or not.

Q. You don't?

A. No, what I seen when we floated out, that's all I seen.

Q. Now, how near to the "Arcona" did the "Celtic Chief" come when she came off the reef? What direction did she move? A. Moved down this way.

Q. Toward what vessel? A. What?

Q. What way did she move? What direction?

A. I don't know what direction is that.

Q. Came off the reef and moved out of the way?

A. Moved out this way, going out that way.

Q. Toward what boat that was out there?

[1573—739] A. Toward this boat was towing.

Q. Which one?

A. That "Arcona," where the light is, the searchlight is.

Q. Towing her? How do you know the "Arcona"

(Testimony of Moses Kakai Ekau.)

was towing her?

A. Well, first when I start to look her she was out there and she got her line on board on the stern and after that time I didn't like to go around there and look her line. I was working my work.

Q. Did you mean that the "Arcona" was towing when the "Celtic Chief" came off?

A. I don't know whether she was towing or not. She was turned about when that was floating.

Q. And the "Celtic Chief" went out toward the "Arcona"?

A. Yes, sir. When the vessel came out and the "Arcona" come this way and the vessel was floating out that way and the "Arcona" was going toward the Waikiki side of the vessel after the vessel come out this way.

Q. How near to the "Arcona" did the "Celtic Chief" come when she came? A. About quite far.

Q. How's that? A. Quite far.

Q. How far? A. I don't know how far.

Q. Did she come about half of the distance or less than half? A. Quite little far.

Q. Now, when the "Arcona" pulled the "Celtic Chief" out to sea, did you see the lines that she was using?

A. I see the line before, when that was rigged. It's a wire line. The "Arcona" was towing the "Celtic Chief."

Q. Did you see her lines then?

A. I can't see her line. I don't pay attention her line. I didn't look her line; I was working my work.

Q. You didn't go up on the poop then?

(Testimony of Moses Kakai Ekau.)

A. No, I don't pay attention her line because when the [1574—740] boat was out I start coiling our rope.

Q. You didn't pay attention to the "Arcona"?

A. I see the "Arcona" but I didn't pay attention to the line.

Q. You didn't pay any attention to any other boats? A. Just the "Arcona."

Q. Just the "Arcona"?

A. I never pay attention to look the "Arcona's" line.

Q. What did you look at?

A. I was on deck working, coiling our ropes and fixing our tackle.

Q. Do you know whether or not on Tuesday night, Capt. Miller went anywhere near the "Celtic Chief," nearer than the "Makee" did?

A. He was on the "Makee."

Q. He was on the "Makee and went out Tuesday night? A. When he went out Tuesday.

Q. Did he go over on the "Mokolii" Tuesday night?

A. The captain of the "Mokolii" go over Tuesday night.

Q. Did Capt. Miller go on the "Mokolii"?

A. He was on the "James Makee."

Q. Did he stay on the "Makee" all Tuesday night.

A. After that I don't know. He was no work that night, dark; can't see her line.

Q. Do you know whether or not he went over to the "Celtic Chief" on Tuesday night?

A. I don't know. Haven't seen him.

Q. Who was it came back from the "Celtic Chief"?

(Testimony of Moses Kakai Ekau.)

and reported they wouldn't take the surf line?

A. The captain of the "Mokolii."

Q. What did he say about that?

A. He say captain of the vessel won't allow put the line.

Q. To whom did he say that?

A. The captain of the ship.

Q. Did the captain of the "Mokolii" tell Captain Miller? Capt. Miller was on the "Makee"?

A. "Makee"; yes.

Q. Did he say why he wouldn't take it on?

[1575—741]

A. He talked to the captain but I don't hear him.

Q. You didn't hear him say why?

A. I hear what the captain says.

Q. What was that?

A. He told Capt. Miller that the captain on the sailing vessel wouldn't allow to put our surf line on the vessel.

Q. Did he give any reason?

A. No, I didn't hear any. That's all I remember.

Q. What did you anchor the "Makee" with?

A. The same place.

Q. What did you anchor her with? What anchor? A. Her small anchor.

Q. What? Her small anchor? A. Yes.

Q. Now, you say you saw a second red light go up. Was that before or after the rockets went up?

A. The second red light?

Q. Yes. A. After the fireworks is fired.

Q. What? A. After they fire that rocket.

Q. After the rockets went up that second red light went up?

(Testimony of Moses Kakai Ekau.)

A. That's when they fired, then they send the light up the same time. The rocket was fired first then the light go up.

Q. That's at the second jump?

A. That's the second jump, yes.

Q. Coming back to the first jump, where was Capt. Miller, do you know?

A. I don't know where he was. He was on the poop, I think. I didn't mention.

Q. You don't know where he was?

A. First I see him he was around with the captain. After that I don't know where he went to. [1576—742]

Q. Do you know where the captain of the ship was? A. I don't know who was on the poop.

Q. Do you know where Pilot Macaulay was?

A. I seen Pilot Macaulay; yes.

Q. They were all on the poop when that first jump came? A. Macaulay was on the poop.

Q. That was about an hour before the second jump? A. What's that?

Q. That first jump was about an hour before the second? A. About that.

Q. And at that time Pilot Macaulay and the captain of the ship and Capt. Miller were up on the poop? A. I seen Macaulay on the poop.

Q. About that first jump? Was that just a light, little jump or was it so strong everybody on the vessel could notice it?

A. That is strong could feel it.

Q. How do you know that?

A. It was kind of strong.

(Testimony of Moses Kakai Ekau.)

Q. Make a grinding sound on the bottom?

A. I can't feel the sound but you could feel it.

Q. Just easily or very strongly?

A. Just. I can't—just what I tell.

Q. Did the ship move much? How far did the ship move? A. Ain't very far—just like drag.

Q. Did she move as much as half her length?

A. No.

Q. Not that much? A. Not that much.

Q. How much do you think she did move?

A. I can't see how much she moved.

Q. Well, ten feet or twenty feet?

A. No, about a couple of feet.

Q. Couple of feet? A. Yes, kind of dragging.

Q. Your tackle dropped to the deck?

A. Come right to the deck the first jump. [1577—743]

Q. Didn't go clear to the deck the first jump?

A. No.

Q. Did you hear anybody call out when she jumped at first? A. What.

Q. Did anybody call out that the ship was moving when the first jump came? A. No; I didn't hear.

Q. Did you hear any orders from Capt. Miller right about the time of the first jump?

A. I didn't hear. I heard the order from Tom Mason.

Q. What was that order?

A. That was after the first jump.

Q. What was it?

A. Call us to heave away. Call me, call the boys to heave. The boys was heaving little slow and after we jumped Mason called me tell the boys heave little fast

(Testimony of Moses Kakai Ekau.)

so we start to heave from that time. Ain't very fast. After that time the jump come the boys was hurrying. The tackle was coming fast like she's go out, she's going out.

Q. The first jump was strong enough for everybody to feel on the vessel?

A. Yes, strong for everybody to feel on board.

Q. Shake the vessel? A. Ain't very strong.

Q. You could feel it so there was no mistake about what it was? A. What?

Q. You knew the ship was moving?

A. I knew the ship was moving, first jump.

Mr. OLSON.—That's all. [1578—744]

[Testimony of Makelana, for Libelant.]

Direct examination of MAKELANA, a witness called on behalf of Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—What's your name?

A. Makelana.

Q. Do you know the "Celtic Chief"? A. Yes.

Q. Do you know the ship, "Celtic Chief"?

A. Yes, sir.

Q. What were you doing on Tuesday, December 7, 1909, in relation to the "Celtic Chief"?

A. On her?

Q. What were you doing that day, Tuesday, December 7, 1909—what were you doing that day?

A. We getting the anchor, hawser, blocks, and steel cable wire on board the "Makee" from the Hackfeld wharf.

Q. For whom were you working at that time?

A. Miller Salvage Company.

(Testimony of Makelana.)

Q. Who was your boss? A. Captain Miller.

Q. Any other boss under him?

A. He's only my boss.

Q. Not Dick Clarke? A. No.

Q. You know Tom Mason? A. Yes.

Q. Was he your boss? A. No.

Q. Only Captain Miller? A. Yes.

Q. Who paid you off? A. Captain Miller.

Q. Were you working for the Miller Salvage Company, on [1579—745] Wednesday, the next day?

A. Yes, sir.

Q. What were you doing?

A. We take our anchor, big anchor, and rig our line on the "Celtic Chief," Wednesday morning.

Q. Tuesday night, what did you do with the "James Makee"?

A. They anchored six o'clock Tuesday.

Q. What anchor did you use?

A. The "James Makee."

Q. The "James Makee's" anchor? A. Yes.

Q. Did you have a big anchor belonging to the Salvage Co.? A. Yes.

Q. Where was that then?

A. We take that anchor Wednesday morning.

Q. Where was that anchor that Tuesday night?

A. I remember the "Makee."

Q. What did you do Wednesday morning?

A. We take the anchor, the gib anchor Tuesday.

Q. What did you do with it?

A. Dropped it in the water.

Q. How far away from the "Celtic Chief"?

A. About between five and seven hundred feet, as far as I can guess.

(Testimony of Makelana.)

Q. Seven hundred feet, you think?

A. Of course, I can't guess; she's too far.

Q. What direction was it from the "Celtic Chief" you dropped it? A. Stern.

Q. What did you do then?

A. Run our line to the "Celtic Chief."

Q. What were you doing yourself? You ran a line to the "Celtic Chief"; but what were you doing? What was your job? A. Capstan.

Q. You haven't got on to the "Celtic Chief" yet. You were on the "James Makee"? How did you get on the "James Makee" [1580—746] from the "Celtic Chief"?

A. When we dropped the big anchor that we had, after we went aboard.

Q. After you dropped the big anchor, what did you do?

A. We had to get our lines over to the "Celtic Chief."

Q. Then what did you do?

A. We go out then I had to go to the capstan.

Q. You went on the "Celtic Chief" and went up to the capstan? A. Yes.

Q. What were you doing on the capstan?

A. Heaving up our line.

Q. When you got to the capstan, what did you do with it, if anything?

A. Just got our bar in, get ready our bar in and when we get all our lines fixed up and we started to heave him up.

Q. When you say you got your lines fixed up, what do you mean by that? A. All complete.

(Testimony of Makelana.)

Q. What did you do with the lines in the capstan? What had the lines to do with this capstan? Explain to the Court.

A. I have to turn the capstan and then you get ready and then you have to heave him away.

Q. Did you turn, take a turn with the line around this capstan? A. Yes.

Q. Then you put your bars in the capstan, and began to move the capstan? A. Yes.

Q. And what did that do to the tackles, if anything? A. Some other boys was working there.

Q. When you were heaving in on the lines what was—what effect did it have on the tackles? You know there were [1581—747] tackles on the ship, didn't you? A. Yes.

Q. When you began heaving in what did that do to your tackles, if anything? A. Help up our line.

Q. Did you get that hawser to the anchor taut or not? Did you have a hawser to the anchor of the Miller Salvage Company? Did you have an anchor to the Miller Salvage Company? Did you have a steel wire, steel cable, or something?

A. Yes, from the Miller Salvage Company, Miller Salvage Company's anchor.

Q. Did you get that taut at any time or not? Did you get that rope to the anchor taut? A. Yes.

Mr. OLSON.—I object to the question on the ground. it's leading.

Mr. WEAVER.—Q. What effect, if any, did the turning of the capstan have on the anchor, on the cable of the anchor?

Mr. OLSON.—I object to that; it's calling for a

(Testimony of Makelana.)

conclusion of the witness.

Mr. WEAVER.—Q. What did the turning of that rope around the capstan do to this rope that was attached to the anchor? When you turned the capstan—what happened when you turned this capstan with the rope on it? A. Getting our line tight.

Q. Did you get it tight? A. Yes.

Q. And when you got it tight what happened to the “Celtic Chief,” if anything?

Mr. OLSON.—I object to the question on the ground it is [1582—748] incompetent, irrelevant, and immaterial.

Mr. WARREN.—Same objection.

The COURT.—Objection overruled.

Mr. WEAVER.—Q. Do you understand the question? A. Yes. When she—

Mr. OLSON.—If the Court please, I’d like to have it appear of record that it’s taking the witness a long time to answer this question.

Mr. WEAVER.—Q. Did you understand the question or do you wish it put in another form?

A. We get our line taut and the “Celtic Chief” moved inch by inch, as far as I know.

Q. When did that happen?

A. Between eight and ten that night.

Q. What indication was there that the “Celtic Chief” was moving off at all? A. Sir?

Q. What was there to show that the “Celtic Chief” was moving? How do you know it was moving?

A. Well, I could feel it.

Q. How do you feel it? Describe it.

A. I could feel the keel scraping.

(Testimony of Makelana.)

Q. How much of a movement was this, if you know? A. How many she moved?

Q. Yes, how much she moved, if you know?

A. Inch by inch.

Q. Altogether, did she move one inch? Do you mean inch by inch? How much she moved at a time? You say inch by inch, which means, to me, some inches. How much altogether? How many times did she do that or how much did she move altogether that time? [1583—749]

A. How many times she moved?

Q. How many inches she moved?

The COURT.—How far did she move?

A. I can't guess right, but between four and five.

Mr. WEAVER.—Q. Four and five what?

A. Five inches.

Q. Now, then, after that, after you felt her move this way, what movement did you feel about her? Was there another movement at that time?

A. Afterwards.

Q. What happened then? What did you do about tackles, if anything?

Mr. OLSON.—When?

Mr. WEAVER.—At that time when she was moving a few inches.

A. At the time we moving inch by inch, after that I was on the capstan, so we held our line tight so some other men, you know, had to change our line because our lines—

Q. What do you mean, had to change our lines?

A. Like this, because we always move our hawser to the cable, fast to the cable and pull him out; that's what we do.

(Testimony of Makelana.)

Q. Well, after this inch by inch what was the movement of the vessel after that, if any?

A. After that?

Q. Right after that was there a movement after that?

A. After that about two jump, that's the last; about the first jump and the second jump that's the last.

Q. Then altogether, how many movements or jumps, as you call them, were there by this vessel?

A. The last one?

Q. Altogether from the first time you worked on the [1584—750] "Celtic Chief" to the time she came off?

A. Not the inch by inch but the jump; there is only two jumps.

Q. Then there was the inch by inch movement and the two jumps; is that what you mean? A. Yes.

Q. When were these two jumps?

A. What time?

Q. Yes, what time—after or before this inch by inch movement? Were these two jumps after the inch by inch movement or before? A. After.

Q. How long after? A. About an hour.

Mr. WARREN.—Do you mean both? You said these jumps.

A. First jump from the inch by inch, from that time to the first jump is about one hour.

Mr. WEAVER.—Now then, we come to what you call the first jump. Now, what was the interval between that first jump and any other jump?

A. And the last jump?

(Testimony of Makelana.)

Q. Yes.

A. I can't guess right what time is it, but somewhere about half an hour, I think.

Q. Then I understand that there was the inch by inch movement that you spoke of then an hour, then a jump then another hour and another jump?

A. Yes.

Q. How strong was this first jump that you speak of? How strong was this first jump that you speak of? A. How many feet?

Q. What was the effect, what did you feel about it?

A. Feel? You could feel our lines, capstan is loose, is coming, very slack.

Q. You could feel that the lines to the capstan were very [1585—751] slack?

A. Our lines were very slack.

Q. What did you do about it then, if anything? Were you at the capstan then at that time?

A. Yes.

Q. What did you do about it, if anything?

A. We had to hurry to get our cable wire tight and heave him over again.

Q. Now, that first jump that you experience and you hurried up, what did you do when you hurried up? What work did you do about that capstan in hurrying up? A. To get our lines.

Q. How did you get your lines? What did you do to get your lines? A. Pull in the slack.

Q. How? A. With our hands.

Q. You pulled in your slack with your hands? How much could you get in with your hands? Was that a little or a great deal? A. About a foot.

(Testimony of Makelana.)

Q. Oh, you only got a foot in. Then what did you do after you pulled in the slack with your hands and got that foot in? What did you do with that line?

A. Have to turn the capstan again.

Q. You couldn't turn the capstan, you had this fall in your hand. What did you do with your line then?

A. We had to turn our line to the capstan.

Q. Took a turn to the capstan. How many turns?

A. Three or four.

Q. Then what did you do?

A. Then we had to turn the capstan.

Q. Then what work was done on that capstan when you began to turn? A. To get our line tight.

Q. Can you say—were you working on the bars at [1586—752] that time? A. Yes.

Q. What kind of work—was it hard or easy at that time? A. The first time you work is very hard.

Q. At the time you took the turn about the capstan and you began to move, after the first jump, was it hard or easy to go on taking in that slack?

Mr. OLSON.—I submit the witness has answered it is hard.

The COURT.—Proceed.

A. It's not very hard like before.

Q. Then what did you do when you began to take a turn? Did that have any, was there any difference in your work after that? A. Yes.

Q. What? A. It is not hard as before.

Q. Yes. Describe the work.

A. Not as hard as before.

Q. How long did this continue this thing, this working on the capstan that way?

(Testimony of Makelana.)

A. Just went at that time.

Q. What happened next?

A. But it's very hard. And afterwards it's not hard as before.

Q. When you say not hard, what do you mean about working on that capstan? You tell about your own knowledge. You were working on the capstan at that time. Did you say it was hard now? What was the difference in your work?

Mr. STANLEY.—Do you mean the degree of difference?

Mr. WEAVER.—I want any difference that he *can*.

A. No difference because I was on the capstan and no change.

Q. Now, you say it was hard. How fast were you going, moving around the capstan before this first jump? A. Before the first jump?

Q. Yes.

A. We have to pull in very [1587—753] hard the capstan because there is three men on the bar. It's very hard to pull.

Q. And after the jump when you took in this slack?

A. When we turn the capstan not hard as before.

Q. How long before that first jump?

Mr. OLSON.—How long was it easy?

Mr. WEAVER.—After the—you said it was not so hard after the first jump?

A. Yes.

Q. Now, how long did that kind of work keep up, that easy work? A. About three minutes.

(Testimony of Makelana.)

Q. Then what happened, after that? What happened?

A. After we get little bit hard again because, you see, the first time, the first jump, our lines is not very tight as before so when we took a slack in because when the time you turn the capstan you feel it is not hard as before because your rope is not stretch out that time, and about two or three minutes we get our line hard again.

Q. Was there any work done from that time up to the time of the second jump on that capstan?

A. The last jump?

Q. Yes, the last jump. Was there any work done from the end of that three minutes you are speaking of up to the time of the second jump on the capstan?

A. Yes.

Q. What kind of work were you doing?

A. Well, we have to turn that capstan.

Q. Well, were you turning it or not?

A. We were turning.

Q. Who was turning? Were you turning it?

A. No, three men at a bar.

Q. Well, were you working there?

A. Yes. [1588—754]

Q. How many men altogether?

A. Eight bar, twenty-four men.

Q. How long were those twenty-four men working at that time? After the three-minute work you speak of, were those twenty-four men working all the time up to the second jump? A. Yes.

Q. How hard were they working, if you know?

Mr. OLSON.—I object to the question on the

(Testimony of Makelana.)

ground it is impossible for the witness to say. He is not qualified to answer.

The COURT.—Objection overruled.

Q. How hard were those men working at that time? Those twenty-four men?

A. How strong?

Q. How strong?

A. How strong they turning that capstan?

Q. Yes.

A. They have to turn very hard, then we have to turn and we have to work to turn that capstan. We got no chance to stay back because we see the ship is moving. We have to keep on that bars and turn it to get the ship out.

Q. That means none of you took a rest; is that what you mean?

A. No, like this. You know, we had twenty-four men on eight bars and sometimes the others come in and the others step back, see? Not the twenty-four men keeping on that capstan. Some come in, some go out.

Q. Do you know why they went out? A. Yes.

Q. Why?

A. Because they getting tired. [1589—755]

Q. Do you know in the course of that time between the first and the second jump, how many men had changed? How much relief there had been there?

A. I don't know.

Q. Were there many or few that got relieved that way? A. Many.

Q. Half, perhaps, or more or less?

A. About five; between ten men relieve the twenty-four.

(Testimony of Makelana.)

Q. What—how much effort did you use that time you were working at the bar that time, weren't you?

A. Yes.

Q. Describe what effort you used on that. How much strength did you use to get that thing going there?

A. Well, I have to use my strength all that I can.

Q. How long did that thing keep up, that kind of work? A. How long?

Q. Before you got rested? A. How long?

Q. From the three-minute time you described pulling in the slack getting to hard work again, up to the time of the second jump, how long was it you had to use that force? A. How long I relieve?

Q. How long you were working on the capstan that way? A. About one hour.

Q. When the second jump came what did you hear and what did you feel about it, if anything?

A. The last jump?

Q. Yes, the last jump.

A. See our lines all slack and we have to cut our lines to throw overboard.

Q. When the second jump came what did you do about the capstan, if anything?

A. No, we didn't do. We have to throw our line overboard. [1590—756] We didn't do any more to the capstan the last jump.

Q. Just before you threw your lines overboard, what were you doing? A. Before the last jump?

Q. You say you had to throw your lines overboard. Before that, what were you doing with the capstan? I'll withdraw the question.

(Testimony of Makelana.)

A. We have to get away from the ship because our lines throw overboard.

Q. While you were at the capstan?

A. We didn't do no more on the capstan when we throw our lines overboard.

Q. Just before that, before you threw the lines overboard, were you working on the capstan just the same as before or not? A. Yes.

Q. When you were working there, did you notice any vessels astern of the "Celtic Chief," any steamers? A. Any steamers? Yes.

Q. What were they?

A. "Mikahala," "Helene," "Likelike," and the German cruiser, "Arcona."

Q. Do you know whether or not—did you notice whether or not they were attached to the "Celtic Chief" by lines?

A. If they have lines on the "Celtic Chief"?

Q. Yes.

A. Yes, their lines *on the* stuck on the "Celtic Chief."

Q. Now, at the time of the movement inch by inch, that you speak of, of the "Celtic Chief," did you notice the lines to the "Mikahala"? A. Yes.

Q. And the "Arcona"? A. Yes.

Q. And the "Likelike"? A. Yes.

Q. And the "Helene"? A. Yes. [1591—757]

Q. Do you know—if you did notice them, can you say what the condition of those lines was at that time with regard to any strain on them? Do you know what strain is? A. Yes.

Q. Pull. A. Pull? No.

(Testimony of Makelana.)

Q. What do you mean by no?

A. They not pulling.

Q. Well, could you see them?

A. Yes, I could see them.

Q. How could you see them?

A. The light from the German boat, the search-
ling.

Q. And where were you looking from when you saw them? A. On the capstan.

Q. Where was the capstan placed?

A. Forward.

Q. Where forward—up on the bow? A. Yes.

Q. Up on the forecastle? What could you see from the forecastle? How close could you see up to the “Celtic Chief” from the forecastle?

Mr. OLSON.—I object to that question. It is incompetent, irrelevant and immaterial.

Mr. STANLEY.—And also unintelligible.

Mr. WEAVER.—From your position on the fore-castle how close to the bow or stern of this “Celtic Chief” could you see? A. From the—

Q. From your position on the forecastle?

A. From the capstan to the poop.

Q. Yes, how close up could you see? We’ll change the question.

A. I could see very plain because the search-light from the German cruiser.

Q. You could see plainly on that ship. You could see—how far could you see the lines? You saw the lines of the “Mikahala” coming through the stern of the “Celtic [1592—758] Chief,” could you?

(Testimony of Makelana.)

A. Yes.

Q. How close to the "Celtic Chief" could you see these lines, these lines of the "Mikahala"?

A. How close the "Celtic Chief"? See from the "Mikahala"?

Q. How close up to the "Celtic Chief" could you see this line from the "Mikahala"? Could you see it close up or far away?

The COURT.—Wouldn't it be clearer to ask him how much of the line he could see?

Mr. WEAVER.—How much of that line could you see?

A. How many feet? How many yards?

Q. What part of it, half, quarter, third or what part of it could you see where you looked from the forecastle at the "Mikahala" line?

A. You see the capstan up in the bow and you could see plain by the search-light.

Q. How much of it could you see? Could you see all of it or part of it?

A. Can't see all because the line is in the water.

Q. Could you see the part near the "Celtic Chief" coming right in the side?

Mr. OLSON.—I object to any suggestion of where that line came.

Mr. WEAVER.—You couldn't see all because it was in the water that time when you pulled this inch by inch movement?

A. Yes.

Q. Did you see that line in the water that time?

A. Yes.

Q. Was it out of the water sometimes?

(Testimony of Makelana.)

A. No.

Q. Could you see whether or not the "Mikahala" was pulling at that time?

A. If he pulling the lines would not go in the water.
[1593—759]

Q. Could you see the stern of the "Mikahala"?

A. Yes.

Q. Could you see the condition of the water at the stern of the "Mikahala"? A. The distance?

Q. The condition of the water at the stern where the wheel is, could you see that? A. Yes.

Q. Can you say whether or not at that time she was pulling from the condition of that water?

A. No, she's not pulling.

Q. How could you see this at night?

A. By the light, the light show; by the search-light.

Q. The same time—you are speaking of the inch by inch movement. Take the first jump; do you know what the condition of the "Mikahala's" lines were when the first jump came after this inch by inch?

A. Yes.

Q. What did you see that time?

A. The lines in the water. The first jump they not pulling.

Q. And the last jump, the second jump?

A. The last jump, the time the ship come off.

Q. Did you see the lines of the "Mikahala" then?

A. I saw the lines in the water.

Q. Just before they were in the water, did you see them? A. Yes.

Q. Were they pulling or not? A. No.

Q. Take the "Arcona" lines.

(Testimony of Makelana.)

A. The "Arcona" not pulling.

Q. At any one of these times that you call the inch by inch, the first jump, and second jump, was the "Arcona" nulling? A. No.

Q. How could you see?

A. By the light and by the way the line in the water.

Q. Could you tell whether there was a strain on this [1594—760] line? A. No strain.

Q. Why not? A. Because they not pulling.

Q. How do you know?

A. Because the line was slack.

Q. What was the condition of the lines with regard to the surface of the sea, these "Arcona" lines?

Mr. OLSON.—Object to that question; it has been answered.

Q. Were these lines deep in the water or were they only in the water, on the surface of the water?

A. Deep on the water.

Q. During the first jump, was that the same condition? A. Yes.

Q. And the second jump? A. The last jump?

Q. Yes. What did you notice?

A. The last jump they give they have, they got the fireworks from the boat so that's the time the German cruiser started to pull the boat out.

Q. What happened to the lines of the "Arcona" then? A. That's the time they pull.

Q. Well, what happened to the lines when they pulled? How do you know they pulled?

A. The time they give the sign from the poop.

Q. They gave the sign from the poop. How do

(Testimony of Makelana.)

you know they were pulling?

A. By the way she started to pull out.

Q. How do you know the "Arcona" was pulling?

A. By the search-light. The time they cut our line throw overboard, the search-light working; that's the time they pulling out; the lines come out, stretch out from the water.

Q. The two lines from the "Arcona" to the "Celtic Chief" stretched out from the water after the fireworks? A. Yes.

Q. Did you see any other schooner than fireworks at that [1595—761] time?

A. That's only what I seen, the fireworks.

Q. Did you see anything else? Nothing more?

A. No, don't see.

Q. Did you see any lanterns?

A. I didn't see. I never took no notice. I see the fireworks going up.

Q. Which was first—this first jump or the fireworks? A. Jump first.

Q. Now, then, the second jump you spoke about, was that first or were the fireworks first?

A. The last jump?

Q. Yes, the last jump.

A. The last jump first and afterwards the fireworks.

Q. Now, did you see any lines? You saw the "Helene" and the lines from the "Helene" to the "Arcona," to the "Celtic Chief"? You saw the "Helene" and the "Likelike" lines? A. Yes.

Q. What were the conditions of those lines at the time of the inch by inch movement? Were they

(Testimony of Makelana.)

slack or were they tight? A. Slack.

Q. And at the time of the first jump?

A. Same thing.

Q. And at the time of the second jump?

A. Same thing.

Mr. WEAVER.—That's about the end. I'd like to keep his testimony open.

Mr. OLSON.—If the Court please, I'd like to do a little cross-examining.

Cross-examination on Behalf of Libellee.

Mr. OLSON.—Q. Mr. Moki, all of these lines from all of these boats [1596—762] that were pulling from the "Celtic Chief" were all down deep in the water? A. Yes.

Q. You could see that plainly enough.

A. Yes.

Q. How many lines did the "Arcona" have on the "Celtic Chief"? A. Two lines.

Q. You could see both of those? A. Yes.

Q. They were hanging in the water? A. Yes.

Q. You could see where they all came up to the "Celtic Chief" out of the water? You could see how they came out of the water? A. Yes.

Q. You were pulling at the capstan all the time?

A. Yes.

Q. You didn't go away from the capstan?

A. Sometimes, when I got relieved.

Q. Where did you go to?

A. Go around and look.

Q. Where did you look?

A. Go behind the ship where them lines.

(Testimony of Makelana.)

Q. But you could see all of these lines from the capstan from where you were working on the capstan? A. Yes.

Q. There was no difficulty in your seeing all this from where you were working on the capstan?

A. Yes.

Q. No trouble? A. No trouble; yes.

Q. And that's where you saw all of this from the capstan. You said you were at the capstan working and you were watching the lines?

A. Like this; I was working on the capstan, when the time they relieve me I have to go around and then that's the time I saw everything going [1597—763] on. Sometime when I was on the capstan I could see the "Helene" and the "Mikahala" and the "Likelike" lines, and you can't see the other line of the German cruiser because it is on the other side, but when I got relieved I could see both lines.

Q. Most of the time you were not working on the capstan, were you? You weren't working very much of the time on the capstan, were you? A. No.

Q. You didn't do very much work on the capstan?

A. I didn't do it.

Q. I ask you, did you do very much work on the capstan? A. Yes.

Q. You weren't working much of the time on the capstan? A. I working; yes.

Q. I'm asking you how much time you spent on the capstan? Did you work long on the capstan, a long time on the capstan? Can't you answer my question? A. Wait a minute.

(Testimony of Makelana.)

Q. I'm not asking you for minutes. Did you work a long time?

A. Not a long time, because, you see, we had to relieve and I had to go around. Sometime I come in and sometime I used to go out between them too.

Q. Now, then, didn't you tell Mr. Weaver a short time ago that you were working on that capstan when she gave the first jump? A. Yes.

Q. And that you worked on that capstan from that time up to the time when she came off? A. Yes.

Q. You were working there all the time?

A. Yes.

Q. You didn't leave the capstan during that time? [1598—764] A. No, I didn't leave.

Q. You didn't leave the capstan? You never went away? A. No.

Q. You told Mr. Weaver you were working there all the time from the first jump? A. Yes.

Q. And you couldn't see the "Arcona" lines when you worked on the capstan? A. The capstan?

Q. From the capstan?

A. The time I worked on the capstan, I can see.

Q. You could do it? A. Yes.

Q. You could see the line? A. Yes.

Q. There was no question but what the "Arcona" was not pulling? A. Yes.

Q. You could see that from where you were working on the capstan? A. Yes.

Q. And you were working on that capstan from the time she jumped the first time, all the time until she came off? A. Yes.

Q. I want to ask you how you could see those lines?

(Testimony of Makelana.)

Could you see that they sank right down into the water? A. Yes.

Q. How far from the stern of the "Celtic Chief" would they hit the water?

A. The "Arcona" lines?

Q. Yes, the "Arcona's" lines?

A. How many feet?

Q. Yes, about how many feet?

A. I can't guess how many feet right, but between fifteen and twenty.

Q. You could see where they touched the water all right enough? A. Yes.

Q. On both sides? A. On both sides.

Q. From where you were working on the capstan?

A. Yes. [1599—765]

Q. When she moved inch by inch were you working on the capstan? A. Yes.

Q. How much of the time were you laying off between the time she moved inch by inch and between the first jump? A. How many time I off?

Q. Yes. A. About two times.

Q. How long were you off each time?

A. How long I'm off?

Q. Yes. How much rest did you take?

A. Didn't take a rest not about five minutes.

Q. But you were off five minutes?

A. Not about five minutes. Nearly about that because I can't guess.

Q. About five minutes each time?

A. Something like that.

Q. All the rest of the time you were working on

(Testimony of Makelana.)

that capstan? A. Yes.

Q. Isn't there a house on the main deck?

A. Yes.

Q. Runs right across the ship? A. Yes.

Q. Except a little on the sides? A. Yes.

Q. There is a poop on the deck that comes about eight or ten feet? A. Yes.

Q. The bulwarks come up four or five feet on the main deck? A. Yes.

Q. Then back on the poop the sides of the vessel come up there? A. Yes.

Q. Seven or eight feet? A. Yes.

Q. You can't see the water back of the "Celtic Chief"? It's solid in there?

A. Yes. [1600—766]

Q. Solid? A. Solid behind?

Q. Yes, underneath the poop. There are ——— that go right up to the poop deck from the main deck?

A. Yes.

Q. Where is the capstan? About amidships at the bow? About the same distance from the side on each side?

A. I can't tell you because I'm not sailor.

Q. Well, this capstan was up in the bow of the vessel? A. Yes.

Q. About how far from the rail?

A. From one side to the other?

Q. Yes. A. How many feet?

Q. Yes, from the capstan to the side of the vessel?

A. About between six and eight.

Q. Six and eight feet? A. Yes.

(Testimony of Makelana.)

Q. Six and eight feet. How far from the other side?

A. I think about the same; of course, I can't—

Q. It's right in the middle, isn't it, between the sides? A. I can't tell you; it's right in the middle.

Q. Just about? A. Yes.

Q. Now, then, as you were working at the end of the bar you were about six or eight feet from the sides. As you were out there at the end of the bar you would come six or eight feet from the sides?

A. Yes.

Q. Now, then, I want to ask you how you could see the "Arcona's" lines over the house and through that poop deck?

A. That stick is about—that stick on the capstan, can't tell how many feet long. About six or eight.

Q. About six or eight feet long?

A. I was outside there. [1601—767]

Q. You were right at the end?

A. Right at the end and I could see plainly.

Q. I want to ask you this: the capstan is on the main deck there up on the vessel? A. Yes.

Q. And the whole tackle was rigged on the main deck, wasn't it? A. Yes.

Q. And the capstan is on the main deck?

A. Yes.

Q. Back in the bow of the vessel? A. Yes.

Q. The capstan is on the main deck, wasn't it, in the bow of the vessel?

A. Yes, in the front of the ship.

Q. It was on the same deck that the tackle was rigged up, was it? You know where the tackle was

(Testimony of Makelana.)

rigged? A. Yes.

Q. Same deck, wasn't it? A. Yes.

Q. Now then, how could you look over this poop deck back of the vessel and see the "Arcona's" lines on both side from where you stood?

A. I was outside at the end of the bar. When it go around you could see the line.

Tuesday, August 22, 1911.

Mr. WEAVER.—Go on with the cross-examination.

Mr. OLSON.—How many capstans were there up at the bow of the "Celtic Chief"?

A. How many capstans?

Q. Yes. A. One.

Q. Only one capstan there? A. Yes.

Q. That is all? A. When I was working.

Q. Were there any others around there?

A. I didn't take notice.

Q. You didn't see any other? A. No.

Q. You know that there were no others, don't you, up there [1602—768] in the bow?

A. In the bow?

Q. Yes. There was no more? A. No more.

Q. Then there was one capstan astern, was there not, near the poop, astern of the house?

A. Well, I didn't take notice.

Q. You don't know whether there is any there or not? A. Yes, sir.

Q. Now, this capstan up in the bow of the vessel was located about the middle? Wasn't it just about as far from one side of the ship as it was from the other? Isn't that right? A. On the side?

(Testimony of Makelana.)

Q. No. I'm asking you, wasn't it just about in the middle of the ship about as far from one side as it was from the other?

A. From the bow to the stern?

Q. No, no. Side to side. A. Side to side?

Q. Just about in the middle, this capstan?

A. Not quite in the middle. I can't say it's in the middle because the capstan is on the bow. I can't remember right in the middle of the ship because I don't take a measurement.

Q. Well, it was pretty nearly in the middle?

A. Pretty nearly in the middle.

Q. How wide was it from one side of the ship to the other there? A. About six or eight feet.

Q. Six or eight feet?

A. From between the capstan to the side of the ship?

Q. No, I said from one side of the ship to the other side of the ship.

A. To the other side of the ship? I don't know how many feet.

Q. About thirty feet, wasn't it?

A. No, that's too much, thirty feet.

Q. Well, was it about twenty-five feet?

A. Between ten and twenty.

Q. Between ten and twenty? A. Yes.

Q. Was it as little as ten feet? [1603—769]

A. As far as I know, between ten and twenty feet. That's all.

Q. Was it as little as ten feet?

A. Less than that?

Q. No. Was it less than ten feet?

(Testimony of Makelana.)

A. No, little over ten feet.

Q. How far to the side of the ship would you come as you were standing at the capstan at the end of the bar at the capstan?

A. About two or three feet away from the side.

Q. Wouldn't it be at least three feet away from the side? A. I think about three feet away.

Q. From the side of the ship when you came out at the end of the bar?

A. I don't know. Yes, two or three.

Q. Might it be more than three feet?

A. I can't tell about that.

Q. You were working hard on that capstan?

A. Yes.

Q. You wouldn't drop the bar and run around?

A. I didn't drop the bar only take my time to rest.

Q. Except when you took your time to rest?

A. Yes.

Q. Otherwise you would work hard on the bar all the time? A. Yes.

Q. Where would you be on the bar? At the end of the bar on the outside, or between two men?

A. At the end.

Q. Always? A. Yes.

Q. All the time? A. Yes.

Q. How tall are you? A. I don't know.

Mr. OLSON.—I'd like to have the witness measured.

The COURT.—I don't think there will be any objection. (Clerk measures witness.)

Mr. OLSON.—The measurement—I'll ask the clerk to state what the measurement is. [1604—770]

(Testimony of Makelana.)

The CLERK.—The measurement is five feet, three inches.

Mr. OLSON.—I'll ask counsel to admit that the measurement just now made of the witness by the clerk shows that he is five feet three inches tall.

Mr. WEAVER.—Admitted on behalf of the Miller Salvage Co.

Mr. WARREN.—I so admit.

Mr. OLSON.—Now, just where was this capstan?

A. Where it was, the capstan?

Q. Yes, what you were working on.

A. Where the capstan stands on the ship? In the bow.

Q. On the bow of the vessel? A. Yes.

Q. You would go back and forth, wouldn't you, on the deck when you were at rest? A. Yes.

Q. And it was the main deck, wasn't it, that the tackle was rigged on? These blocks and ropes and tackles were on the main deck?

A. It was on the deck, but I don't know which is the main deck.

Q. Well, was the capstan on the same deck as the tackles were on? A. It's on the bow.

Q. It's on the bow, that's true, but I want to know if it was on the same deck as the tackles were rigged on? A. No.

Q. Higher or lower? A. Capstan is higher.

Q. How much higher?

A. Can't guess right the high, but between four and six. Six feet height.

Q. Between four and six feet height? A. Yes.

Q. It was up there on the forecastle, or the bow?

(Testimony of Makelana.)

A. It's on bow, I don't know if that was fore-castle.

Q. That was between four and six feet high?

A. Yes.

Q. You had to go up some steps from the deck to get on that place? A. Yes. [1605—771]

Q. About five or six steps?

A. Yes, five or six steps.

Q. And that, you think, was about from four to six feet high? A. Yes.

Q. Do you know how wide the "Celtic Chief" was amidships about the middle of the ship? How wide it was from one side to the other?

A. How wide the "Celtic Chief"?

Q. Yes. From one side to the other, just about the middle of the boat.

A. The middle of the boat?

Q. Yes. A. From one side to the other?

Q. Yes. A. Between twelve and sixteen.

Q. Twelve or sixteen feet wide? A. Yes.

Q. Wasn't she pretty nearly as wide as this room is long? A. No, this is more wider.

Q. Don't you think that she was about forty feet wide?

A. No, I don't guess about that. I don't know.

Q. You don't know?

A. I don't know suppose she was forty feet.

Q. She might be forty feet so far as you could tell?

A. No, as far as I could tell it was about sixteen or twenty.

Q. Sixteen or twenty feet wide? A. Yes.

(Testimony of Makelana.)

Q. And that's all? A. Yes.

Q. That would be a little bit more than half as wide as this room; is that right?

A. The ship is little bit more than this room, the widest.

Q. I'm asking you how wide it is. Is it as wide as the room or less, or more?

A. The ship is less than this room.

Q. Less than this room in width? A. Yes.

Q. How long was she, do you think? [1606—772]

A. I don't know how long.

Q. Do you know how much three hundred yards is, one hundred yards, is? A. Three feet a yard.

Q. And you know how much three hundred feet is, don't you? A. Yes.

Q. You know just about how long that is?

A. Yes.

Q. Don't you know that that ship was just about 266 feet long? A. No, I don't know.

Q. Don't you think she was? I think she was just about 266 feet long.

A. I don't think it was 266 feet long because I don't know the measure how long she is.

Q. That looks to you about right?

A. It looks like to me between one hundred and two hundred feet.

Q. Now then, up there near the bow of the vessel where the capstan was, it wasn't as wide there, was it, as it was farther up on the ship, in the middle of the ship? A. The capstan is?

Q. Yes, where the capstan was.

A. Where the capstan is, is not much wider be-

(Testimony of Makelana.)

cause it was up in the bow.

Q. Was it as wide farther toward the middle of the ship? A. Farther up to the bow?

Q. I'm asking you how wide it was right there where the capstan was, compared with the ship about in the middle of the ship. Was it as wide or was it wider or not so wide?

A. No, not so wide because the capstan is there. Not wider than the ship because it is right on the bow.

Q. That's narrower there? A. Yes.

Q. That's pretty much wider? A. Yes.

Q. A good deal wider? A. Yes.

Q. Do you know where the "Arcona's" line came up to the "Celtic [1607—773] Chief," where it came into the "Celtic Chief"?

A. The "Arcona" line?

Q. Where was it on the "Celtic Chief" that that was attached to the "Celtic Chief"?

A. The two lines?

Q. Yes.

A. From the "Celtic Chief" to the "Arcona"?

Q. Yes. A. The two lines?

Q. Yes. A. I was on the capstan.

Q. Where was it that those two lines from the "Arcona" came on to the "Celtic Chief"? What part of the "Celtic Chief" did those lines come to?

A. Come to the stern.

Q. At the stern? A. Yes.

Q. Right at the stern of the ship?

A. Both two lines.

Q. Yes. A. One on each side.

Q. One on each side of the stern of the ship?

(Testimony of Makelana.)

A. Yes.

Q. Don't you know that those two lines came through two chocks or holes in the side of the vessel, one on either side of the stern; two little holes on the sides of the vessel that those lines came through? Isn't that so? A. Yes.

Q. Now, as you were standing up there near the capstan, you could plainly see both of those lines?

A. Yes.

Q. You could see the "Arcona"? A. Yes.

Q. You could see these lines where they went down into the water about fifteen or twenty feet astern?

A. Yes.

Q. You could see where they came out of the water at the "Arcona"? A. Yes.

Q. How far from the "Arcona" did they come out of the water?

A. Where the line entered the water? [1608—774]

Q. Yes. How far from the "Arcona" would you say? About the same distance as it was away from the "Celtic Chief"? Fifteen or twenty feet would you say?

A. The "Celtic Chief," between the "Celtic Chief"?

Q. No, no, no. I want to know how far it was from the "Arcona" that her lines went into the water. You saw that the lines went down into the water? How far away from the "Arcona," was it?

A. Between thirty and fifty.

Q. But the lines at the "Celtic Chief" end went down into the water fifteen or twenty feet right back

(Testimony of Makelana.)

astern of the "Celtic Chief"? A. Yes.

Q. And you could see both of those lines plainly from the capstan where you stood? A. Yes.

Q. Now, the poop stands from six to ten feet on the deck? A. Yes.

Q. Quite a big distance? A. Yes.

Q. Now, you know, don't you, that on the port side, that is to say, on the left side of the "Celtic Chief," the hole in the side of the vessel through which the "Arcona's" line on that side came into the "Celtic Chief" was right where the poop starts, was it?

A. Yes.

Q. You remember that very well? A. Yes.

Q. And you mean to tell the Court, do you that you could see that line from the capstan where you stood where it went down into the water about ten, fifteen, or twenty feet from the stern of the "Celtic Chief"? A. Yes.

Q. At the same time you could see the line on the other side? A. Yes.

Q. Where it went down into the water?

A. Yes. [1609—775]

Q. Plainly? A. Yes.

Q. Right back of the "Celtic Chief"? A. Yes.

Q. Do you remember that there were some gallies with some small boats hanging on them right back of the bow? A. Yes.

Q. Right near you there where you were working?

A. Yes.

Q. Lying there attached to the gallies? You remember that, do you? A. Yes.

Q. There were four of them? A. Yes.

Q. So that you had right ahead of you the house?

(Testimony of Makelana.)

A. Yes.

Q. That is, right back of you as you look toward the "Celtic Chief" there is the house, in the middle of the boat? A. Yes.

Q. And in front, lying there between you and the house, there are these four boats on the gallies; isn't that right? A. Yes.

Q. Now, that place where those boats were resting went right across from one side of the "Celtic Chief" to the other, didn't it, right back of the bow?

A. Yes.

Q. Will you explain to the Court how it was that you could see the "Arcona's" lines dead astern with these boats standing there with the house in front of you and the poop deck in front of you? How could you see?

A. Because the ship is right where the bow is too, and the stern in the way and the capstan is high and I could see plainly.

Q. You could see right over it?

A. Because the ship stern is down in the water and the bow is up and I was on this capstan and you could see it [1610—776] plainly because they got the search-light and the bow is higher than the stern.

Q. Now, that was pretty high, wasn't it, way up out of the water? A. Not very up from the water.

Q. The stern was further down in the water?

A. The stern is in the water. The ship is like this. The stern is in the water and this part where she got on the reef is higher than the stern, and the bow where the capstan is is higher than the stern.

Q. That was Wednesday afternoon and Wednes-

(Testimony of Makelana.)

day night? A. Yes.

Q. Now, where the stern went down into the water, how far would you say it was from the water up to the top of the poop deck—how many feet?

A. The poop?

Q. Yes, how far from the water up to the top of the poop deck? You know what the poop deck is?

A. No.

Q. Well, its that deck right back of the ship. Don't you know that there was a higher place on the deck of the ship? A. Yes.

Q. That's the poop deck where you had to go up some steps. A. Yes.

Q. How far was it from the water, would you say, up to the top of that deck?

A. Well, I don't know how far from the water.

Q. The water was just about five or six feet from that, wasn't it. It was away down in the water, the top of the stern?

A. It's way in the water. It's in the water.

Q. Down deep in the water? A. Yes.

Q. The water was pretty nearly coming into the deck, wasn't it? A. No.

Q. Well, how far was it then?

A. Between three and five feet. [1611—777]

Q. You think it was between three and five feet from the water to the top of that poop deck?

A. Yes.

Q. Now then, how far was it from the water up to the deck or the place where you were, where the capstan was standing? Fifteen or twenty feet?

A. No.

(Testimony of Makelana.)

Q. Ten or fifteen feet?

A. No, somewhere between six and eight feet.

Q. Then it was pretty nearly the same as it was at the back, wasn't it? A. No.

Q. How much higher?

A. I think the bow is higher than the stern.

Q. How much? You said it was, didn't you? You know that it was higher, don't you? A. Yes.

Q. How much higher?

A. The stern to the bow?

Q. How much higher was the bow than the stern from the water? A. About six or eight feet.

Q. Six or eight feet higher? A. Yes.

Q. Then, if it was about three or five feet from the water to the top of the poop, then it must have been about ten feet, ten or eleven feet from the water to the place where you were working, up where the capstan was? Is that right? Ten or eleven?

A. From the water where I am working?

Q. From the water down to the ocean up to the floor of the forecastle where you were working, where the capstan was located, that would be ten or eleven feet, wouldn't it? Can't you answer my question?

A. About somewhere. Might be, but I can't guess if it's supposed to be like that, ten or eleven feet.

Q. You don't know? A. No.

Q. When you say that the bow was up out of the water higher than the stern, do you mean it was like the side of a hill [1612—778] from the bow down to the stern? A. Yes.

Q. A steep hill? A. Not very steep.

Q. Not very steep. Well, will you show here, on this ruler, just about the angle? Let's have that

(Testimony of Makelana.)

ruler and we'll see what your idea of the slant was.

(Witness indicates slant with ruler.)

Q. Now, have you indicated just about the slant of the boat with that ruler? A. Sir?

Q. Does that show just about the slant from the bow where you were looking? Is that right? Have you indicated that? A. Yes.

Q. Now, I'd like to have this measured, if the Court please. Now then, you've got that ruler in the position which shows just how the slant from the place where the capstan was standing over to the top of the deck at the stern of the vessel? A. Yes.

Q. Is that right?

A. Yes, but this measurement is not exactly the way it is before. I just take and show you.

Q. That's the way you think it was?

A. As far as I think, but this is not just like.

Q. Give us as close as you know how.

A. That's the closest I know.

Q. Now, I'd like to have the Clerk measure the distance at the end of the ruler down to the level which the witness has indicated, the highest point, representing the bow of the vessel. Now then, will counsel admit that it is three and a half inches from the level on which the ruler rests to the point, the highest point, which indicates the bow of the vessel?

Mr. WEAVER.—I won't admit it because it is immaterial.

Mr. OLSON.—I withdraw the last question then and I'll ask the Clerk to measure the distance from the end of the [1613—779] ruler on the level to the point directly beneath the highest point of the

(Testimony of Makelana.)

ruler. The base, in other words, of the right angle triangle.

The CLERK.—Seventeen and a half inches.

Mr. OLSON.—Do all counsel admit that the base of this right angle triangle formed by the ruler is seventeen and a half inches?

Mr. WEAVER.—It is admitted by the Miller Salvage.

Mr. WARREN.—It is admitted by counsel.

Mr. OLSON.—I want to have measured the perpendicular from the base to the top of the rule. I withdraw the last question. Now then, I want the hypothesis of this right angle triangle to be measured; that is, the length of the ruler with which the witness is indicating the slope which is admitted by all counsel to be eighteen inches.

Mr. WEAVER.—It is by the Miller Salvage Co.

Mr. WARREN.—Admitted.

Q. I want the perpendicular measured of this right angle triangle; that is to say, from the hypothesis to the base.

The CLERK.—Three and three-quarters.

Mr. OLSON.—Is it admitted by all counsel that the perpendicular of this triangle shown by the demonstration of the witness is three and three-quarter inches?

Mr. WEAVER.—Admitted by the Miller Salvage Co.

Mr. WARREN.—Admitted for Inter-Island and Matson.

Q. Now then, you mean to say, do you not, that there was a sufficient slant of this boat so that you

(Testimony of Makelana.)

could stand on this place where the capstan was and look right over the stern of the ship?

A. What I was—

Q. Can't you answer me? Could you look right over the stern of the ship?

A. I could see because the capstan is up and the stern is down and I could see the two lines behind the "Celtic Chief" between thirty and fifty feet away from the stern. [1614—780]

Q. Stern of the ship? A. Stern of the ship.

Q. Now, why did you say that you could see where those lines went into the water about fifteen or twenty feet away from the stern?

A. Fifteen or twenty feet?

Q. Why did you testify yesterday that you could see those lines where they went into the water about fifteen or twenty feet away from the stern of the "Celtic Chief"? Can't you answer my question?

A. Yesterday I answered fifteen or twenty feet.

Q. Yes, and you did this morning also. Now, why did you say that if you could only see thirty or fifty feet away from the ship? Thirty or forty feet away? Why are you taking so long to answer my question? Can't you answer my question?

Mr. WEAVER.—If your Honor please, I object. Every time the witness starts to answer him he stops him.

The COURT.—I think he ought to have a little time to think it over.

A. From the stern, from the place where the lines go right away from the capstan, from the stern to the place where I could see the lines in the water,

(Testimony of Makelana.)

about fifteen or thirty feet.

Q. Fifteen or thirty feet? A. Yes.

Q. And you could see these all along? A. Yes.

Q. Why did you say just two or three moments ago that you could only see thirty or forty feet beyond the stern or between thirty and fifty feet?

A. Well, because that's what I guessing.

Q. You guess part of the time it was fifteen feet and part of the time thirty or fifty feet, do you?

A. Between fifteen and thirty.

Q. Sometimes you guess it is fifteen or thirty and sometimes [1615—781] you guess it is thirty or fifty? A. Yes.

Q. That is, in other words, you don't know how much it was?

A. Yes, fifteen or thirty feet as far as I know.

Q. Well, now, do you mean it is thirty to fifty feet, or do you mean fifteen to thirty feet?

A. Fifteen to thirty feet.

Q. Fifteen to thirty feet is what you could see?

A. Yes.

Q. You could see easily, then, fifteen feet from the stern of the ship? A. Yes.

Q. Without any trouble?

A. Between fifteen and thirty.

Q. You could see as far—you could see as near to the stern of the "Celtic Chief" right back astern as from you to me where I'm standing now, about fifteen feet away from you; is that right?

A. Very hard to see if you was on the —— and I was on the capstan.

Q. If you were up on the capstan you could see

(Testimony of Makelana.)

a point about as far away from the stern of the "Celtic Chief" as I am from you now; is that right? (Standing at end of rail of jury-box.) You see me, don't you? A. Yes.

Q. Can't you tell whether you could see as near to the stern of the "Celtic Chief" as I am standing from you now? A. Yes.

Q. You could see that there? A. Yes.

Q. Right directly astern of the "Celtic Chief"? A. Yes.

Q. And you could see right over the poop deck and see a point right from the stern of the "Celtic Chief"? [1616—782]

Mr. WEAVER.—I object to that as assuming something not in evidence.

Mr. OLSON.—I'll withdraw the question. Now then, standing at the capstan of the "Celtic Chief," Mr. Moki, and looking over the poop deck at the stern of the "Celtic Chief," were you able to see a point not further distant from the stern of the "Celtic Chief" than the distance between me and you as I stand here, about fifteen or sixteen feet away from you?

A. Yes, about fifteen feet away from the stern.

Q. Could you have seen that point, then, from where you stood at the capstan?

A. Between fifteen and thirty feet?

Q. No, the distance between you and me, could you see that long? A. Yes.

Q. And I'm about fifteen or sixteen feet away from you, am I not? A. Yes.

Q. That's right, isn't it? A. Yes.

(Testimony of Makelana.)

Q. All right.

Mr. WEAVER.—Let the distance be shown.

Mr. OLSON.—All right, we'll have the clerk measure the distance. I'll ask that it appear of record that I was standing a distance of eighteen feet and eleven and a half inches when I referred to the distance as from fifteen to sixteen feet. Is that admitted by all counsel?

Mr. WEAVER.—Admitted.

Mr. WARREN.—Yes.

Q. Now, I want to know, Mr. Moki, what you meant yesterday when you made this answer. I asked you this question, "And that's where you saw all of this, from the capstan?" You said you were at the capstan working and you were watching the lines and you answered me, "Yes, I was working at the capstan when the time they hauling. I have to go around and then that's the time [1617—783] I saw everything going on. Sometime when I was on the capstan I could see the 'Helene' and the 'Mikahala' and the 'Likelike' lines, and you can't see the other line of the German cruiser because it is on the other side, but when I not working I could see both lines." Now then, what did you mean by telling the Court that you couldn't see one of the lines of the German cruiser "Arcona" when you were working on the capstan? What did you mean when you said that yesterday?

A. That I didn't see the "Arcona" line when I'm working on the capstan.

Q. That you *could* couldn't see one of them? What did you mean when you said yesterday that

(Testimony of Makelana.)

you couldn't see one of the lines of the cruiser when you were working on the capstan? Isn't that true, that you couldn't see the German cruiser's lines from where you were working on the capstan? Isn't it true that you could only see those when you got away from the capstan and took your rest?

A. I told you yesterday when I work on the capstan I was outside the bar and I could see both lines.

Q. What did you mean by saying that you couldn't see the other line of the German cruiser because it was on the other side, but "when I not working I could see both lines"? Which one is true? Could you see both lines? A. I could see.

Q. So that when you said that yesterday, you weren't telling the truth?

Mr. WEAVER.—Object to that.

The COURT.—Let him answer.

Q. Isn't it the fact that you were not telling the truth yesterday when you said that you couldn't see the line of the German cruiser?

A. That is all I telling.

Q. Don't you understand my question? [1618—784] A. No.

Q. Yesterday you said, "Sometimes, when I was on the capstan, I could see the 'Helene' and the 'Mikahala' and the 'Likelike' lines, and you can't see the lines of the German cruiser because it is on the other side, but when I not working I could see both lines." Now, you say to-day that you could see both lines.

A. I was outside the bar. I could see at that time I was on the capstan. I could see both.

Q. What did you mean by saying yesterday that

(Testimony of Makelana.)

you could see both only when you were not working?

A. When they hauling up I have to go on the stern and I saw them lines too and when I was on the capstan I could see then.

Q. Both of them? A. Yes.

Q. What did you mean by saying to-day that you can't see the other lines of the German cruiser? Were you telling the truth or weren't you telling the truth when you said that?

A. I think I was mistaken.

Q. So that, what you said yesterday, was not the fact? A. Not the fact.

Q. Those two lines were two big, manilla hawsers, weren't they? A. The "Arcona's" lines?

Q. Yes, two manilla hawsers. Weren't they big, thick lines that you could see easily?

A. Two lines.

Q. They were big, thick ones, so you could see them easily. You could see them easily?

A. Yes.

Q. So they were big, thick lines?

A. It's not big as this.

Q. Were they as big as the Miller line, the anchor-line? A. No.

Q. How big were they?

A. Little smaller. [1619—785]

Q. Were they steel lines or were they manilla hawsers? A. Cable, steel, wire.

Q. About two inch thick?

A. I don't know. About an inch or two inch.

Q. How thick?

A. I don't know. Between an inch or two.

(Testimony of Makelana.)

Q. Then, they were not nearly as big as the Miller line? A. No.

Q. Very much smaller, weren't they?

A. Little smaller.

Q. Now, the search-light, the big light from the German cruiser, was playing on the stern of the "Celtic Chief," wasn't it? A. Yes.

Q. That's where it was all the time? A. Yes.

Q. And you could see those lines where they came out of the water near the "Arcona" and nearly up to the "Arcona"? A. Yes.

Q. Was it a moonlight night? A. No.

Q. Dark night? A. Yes.

Q. Were there no stars? A. Stars.

Q. Wasn't it a cloudy night?

A. I didn't take notice.

Q. It was a dark night, wasn't it? A. Yes.

Q. How could you see those lines?

A. From the reflection.

Q. How far away from the "Celtic Chief" was the "Arcona"?

A. Great many feet, but I don't know how many feet.

Q. About three hundred yards, wasn't it, from the "Celtic Chief"; just about as far as from Beretania Street to Hotel Street, wasn't it? Three hundred yards or a thousand feet?

A. About two or three hundred [1620—786] yards.

Q. Yet you mean to tell the Court, do you, that you could see those two thin wire lines, only little over an inch thick, plainly, from the water, coming

(Testimony of Makelana.)

up from the water a couple of hundred yards away from the "Celtic Chief"? A. Yes.

Q. Because the light, the search-light, was playing down on the water and you could see those lines very well? A. Yes.

Q. No difficulty at all? A. Yes.

Q. You could see the space right underneath the stern of the "Arcona" that the propeller wasn't turning any water?

A. I didn't take notice if the "Arcona's" propeller is working or not.

Q. Why didn't you take any notice of that?

A. Just see where the light is coming to the cable wire; that's all.

Q. You couldn't see, could you, that distance away? That is the reason? You couldn't see whether the water was turned up by the propeller?

A. I didn't take notice of her propeller working.

Q. Could you see? Was the "Arcona" near enough so you could have seen?

A. I could see her, but I can't tell that I could see what she was doing.

Q. You couldn't see whether or not the water was turning under her stern? A. No.

Q. It was too dark? A. Not too dark.

Q. Not too dark?

A. Not too dark. There is the search-light.

The COURT.—Was there more than one search-light? A. What is that?

Q. Only one search-light or more? How many search-lights? A. One.

Mr OLSON.—Now, this first time that you felt

(Testimony of Makelana.)

this inch [1621—787] by inch movement of the "Celtic Chief." You looked at the different steamers during that time and you saw that their lines weren't slack, did you?

A. From the time that happened we could see the line was working.

Q. You could see that plainly? A. Yes.

Q. All of them? A. Yes.

Q. Including the "Arcona"?

A. Including with the "Arcona."

Q. Later on, about an hour later, when she gave this first jump, none of them were doing anything until that? A. None of them.

Q. The "Helene," or the "Mikahala," or the "Arcona," or the "Likelike"? A. No.

Q. None of them?

A. Like this. I could see the line is slack. Suppose they pull you could see line was taut.

Q. None of them were doing anything at all?

A. As far as I know all the line was slack.

Q. Could you see the water turning up at the stern of these different vessels, the "Mikahala," the "Helene" and the "Likelike"? A. No.

Q. They weren't turning up any water?

A. I didn't take notice.

Q. The line was plain enough?

A. I only take notice of the line.

Q. Why did you take any notice of those lines?

A. The time them boats they waiting for the high tide sea, maybe in the morning, then they start all to pull.

Q. That was when they were going to pull?

(Testimony of Makelana.)

A. Yes.

Q As a matter of fact, that's really the fact that they were all going to pull at high tide and they were waiting for that time? A. Yes. [1622—788]

Q. And that's why they weren't pulling?

A. Yes.

Q. Now, you know that's so? A. Yes.

Q. When was it going to be high tide?

A. Sometime that morning.

Q. Daylight?

A. No, about between twelve and four.

Q And they were waiting for that time before they were going to pull? A. Yes.

Q. Now, Mr. Makalena, isn't it the fact that you think they were not pulling because you understood that they were going to wait until that time to start to pull? Isn't that the real reason why you think they weren't pulling?

A. The reason is because I see their lines is slack.

Q. That's the real reason? A. Yes.

Q. All of this time the lines were never out of the water at all?

A. Sometime out of the water, sometime in the water.

Q. What made them do that? Do you know?

A. Because the ship was bouncing up and down.

Q. Not because they were pulling?

A. I don't know if they pulling or not.

Q. But you could see the lines in the water? Sometimes they came up?

A. Like this. I never think that the line was very deep in the water. Sometime the ship bounce up

(Testimony of Makelana.)

and down, the sea and everything, and the lines come up the water.

Q. That's true of the "Arcona's" lines?

A. Not the "Arcona's" line, because the "Arcona" is not a light boat like the others.

Q. That's the reason? A. Yes

Q. She would not come up and down? [1623—789]

A. No.

Q. Her lines were deep in the water all the time?

A. Not very deep in the water.

Q. How deep in the water?

A. About four or five inches in the water.

Q. Right along the whole way you could see the line plainly? A. Not along the whole way.

Q. Well, how deep was it? A. Half her line.

Q. That is, right in the middle of the line it was in the water four or five inches?

A. That's what I only guess.

Q. I have in my hand here a wire that's eighteen inches long, that's six inches, and that would be, so you think, the depth of those "Arcona" lines in the middle, just about like that? (Showing witness piece of wire rope.) A. Just about.

Mr. WEAVER.—I object to that. The witness has said he guessed.

The COURT.—Objection overruled.

Q. And that's about the depth that you think the lines were in the water?

A. As far as I guess. That's what it looked like to me.

Q. Did it look like more than that or the same as

(Testimony of Makelana.)

that, those lines?

A. I think it's about that, or little more.

Q. How much more? A foot more or six inches more? I'm putting my thumb on twelve inches. Do you think that it would be that big?

A. This is far away from me I can't see how deep.

Q. What do you think?

A. Between six and twelve.

Q. It wouldn't be more than twelve?

A. I don't know more than twelve.

Q. Well, eighteen inches? (Indicating on ruler.)

A. Well, between six and twelve. [1624—790]

Q. It wouldn't be much over twelve inches, would it? A. It's not much more than that.

Q. You're pretty sure, aren't you? You could see very plainly?

A. I could see her line in the water.

Q. Then you can tell, can't you, very well?

A. I can't tell. I don't know how many inches in the water or the lines in the water.

Q. Do you mean to say that they were about from six to twelve or don't you mean to say that?

A. I mean to say that that's the way it looked to me. That's the way it looked to me.

Q. How much of that line was in that way—about half of it? A. How much of the "Arcona" lines?

Q. Yes. A. Been in the water many times.

Q. How much of those manilla lines were in the water that way?

A. How many times that line was in the water?

Q. No. I'm asking you how much of that line was in the water?

(Testimony of Makelana.)

A. I can't understand that question.

Q. Well, you know that that line was two or three hundred yards long, those two lines? A. Yes.

Q. How much of those two or three hundred yards was in the water and how much was out of the water?

A. Between about ten and fifteen feet.

Q. About ten or fifteen feet was in the water?

A. Yes.

Q. The rest of it was out of the water?

A. Yes.

Q. And you could see that plainly from the capstan? A. Yes.

Q. What did you mean to say a few minutes ago that that [1625—791] line went in the water about fifteen or thirty feet and at the end from thirty to fifty feet from the boat? What did you mean by saying that?

A. Over thirty feet away from "Arcona."

Q. Didn't you testify a little while ago and also yesterday that those lines from the "Celtic Chief" to the "Arcona" went pretty nearly straight down from the "Celtic Chief" and went into the water about fifteen or twenty feet back of the stern of the "Celtic Chief"? That's what you testified? A. Yes.

Q. And then you said they came out of the water and went up to the "Arcona" about thirty or fifty feet to the "Arcona"? A. Yes.

Q. Where was the rest of the line? Underneath the water? A. The line is in the water.

Q. From those two points, is that right?

A. Yes.

Q. Well then, is that fifteen or twenty feet, was

(Testimony of Makelana.)

that only ten or fifteen feet from one point to the next? A. From the "Arcona."

Q. Was it ten or fifteen feet from the place where those lines went into the water to where they came out of the water to the "Arcona"? Can't you answer my question?

A. How many feet in the water?

Q. Yes, from one place to the next.

A. From one place to the other?

Q. Yes. A. Ten or fifteen feet.

Q. Now then, how many times would it be that way often or once in a while or all of the time?

A. All of the time.

Q. Didn't change at all? A. No.

Q. Just like that all the time? [1626—792]

A. Yes.

Q. Ten or fifteen feet in the water from one place to the next and the rest of the wire was out of the water? Is that right? A. Yes.

Q. Now then, it was the same way when she came off too, wasn't it? When she made the last jump and jumped off of the reef. None of the steamers were pulling then, is that right? A. Yes.

Q. Just the same? A. The last jump?

Q. Yes.

A. That's the time they give the sign from the poop with the fireworks?

Q. Yes.

A. And that's the time the "Arcona" started up.

Q. Was she already in deep water when the "Arcona" got up steam?

A. The last jump and that's the time they gave the sign.

(Testimony of Makelana.)

Q. Was the "Arcona" pulling then before the "Celtic Chief" came off? A. In the last jump.

Q. Yes. A. No.

Q. It was after the last jump?

A. The last jump and then that's the time they started to pull. The time they got the sign.

Q. When she gave the last jump she went off of the reef, the "Celtic Chief," did she or did she not go off the reef? A. She's out from the reef.

Q. The last time? A. The last time.

Q. Was she already off of the reef by the time that the "Arcona" began to pull?

A. Yes, she's already off the reef.

Q. Before the "Arcona" began to pull?

A. By the time the "Arcona" began to pull.

Q. At that time? A. At that time.

Q. She was already off the reef? A. Yes.

[1627—793]

Q. Now then, when was it that this red light went up on the mast, about the same time?

A. Which mast?

Q. Wasn't there a red light that you testified to?

A. I never noticed about that red light.

Q. It was only the fireworks that you notice?

A. Yes, sir.

Q. Now then, you saw the fireworks, did you?

A. Yes.

Q. And did you see the "Arcona" begin to pull? Did she steam up right away?

A. The time they give the fireworks?

Q. Yes.

A. That's the time we saw she started to pull.

(Testimony of Makelana.)

Q. Did you feel her go forward with the "Arcona" pulling her right away? A. Yes.

Q. How long from the time they fired those signals? A. The same time.

Q. Didn't take more than just a second?

A. No.

Q. That's all; is that right? You felt that right way? A. Yes.

Q. Immediately? A. Yes.

Q. Didn't take two or three minutes for her to get started?

A. No. Like this. Because the time I saw the fireworks put it up from the poop and that's the time we saw them start to pull.

Q. She started to pull right then? A. Yes.

Q. You saw that? A. Yes.

Q. You saw the lines come up out of the water?

A. Yes.

Q. And she went forward?

A. I didn't saw the lines come out from the water because we commenced to get our [1628—794] lines to throw overboard.

Q. But you did see the "Arcona" commence to pull?

A. We see her the time she started to pull.

Q. You could see them start forward?

A. I could see because the ship was gone.

Q. Which ship? A. The "Celtic Chief."

Q. Didn't you see the "Arcona" doing something?

A. Yes.

Q. She was going forward wasn't she? A. Yes.

Q. That's all I want. Now, Wednesday afternoon

(Testimony of Makelana.)

you got the tackles all in shape on board of the "Celtic Chief," didn't you, to pull on that big anchor?

A. Yes.

Q. And after you got them, when you got them finally all fixed and got a strain on a hawser then the boys went and had some lunch? A. Yes.

Q. That was just about an hour before sundown?

A. About six o'clock.

Q. About six o'clock. I see. That was about sundown, wasn't it? A. Yes.

Q. It was then for the first time that they got the tackle fixed and a strain on the hawser to the anchor; is that right? A. Yes.

Q. Now then, how many men were there working pushing on the bar of the capstan, on the bars of the capstan at that time? A. Twenty-four.

Q. Twenty-four men, three men on each bar?

A. Yes.

Q. Were you working there then? A. Yes.

Q. Did you always keep three men on a bar or did you have only two on a bar?

A. No, always had twenty-four men. [1629—795]

Q. Do you know Moses Akai Ekau? A. No.

Q. Do you know Dick Clarke?

A. No, I don't know.

Q. Don't you know that he was the boss there on the boat? Dick Clarke?

A. No, I don't know if he was the boss.

Q. You don't know—don't know anything about him? A. No.

Q. Never heard of him before?

A. I just heard but I don't know.

(Testimony of Makelana.)

Q. You didn't see him on the boat?

A. I might see him but I don't know who is his name.

Q. Do you know Dick Clarke when you see him on the street? A. Yes.

Q. You know who Dick Clarke is when you see him? A. Yes.

Q. Don't you know whether that man was on the "Celtic Chief"? A. No.

Q. What do you mean by saying you don't know whether he was there or not?

A. Because I don't know his name.

Q. But that man was there that night?

A. If it's the man you told.

Q. If you were to see Dick Clarke down on the street now to-day you would know who he was?

A. I don't know. I know his name if somebody tell me.

Q. Nobody has ever told you that anybody is Dick Clarke? A. No.

Q. Was there any other boss on the ship that night except Tom Mason?

A. As far as I know Captain Miller is the only one tell me to go and work for Miller Salvage. He never told me, "This is your boss." He never told me that way. I see the other boys working, I have to do it.

[1630—796]

Q. What is your age? How old are you?

A. Thirty-five years.

Q. What's your work? What's your business, occupation—what do you do? A. Now?

Q. Yes.

(Testimony of Makelana.)

A. Shipping clerk. Shipping clerk, Von Hamm-Young Co.

Q. Shipping clerk for the Von Hamm-Young Co. You drive one of the delivery wagons, don't you.

A. No.

Q. You don't? A. No.

Q. What's your nationality?

Recess.

Q. Your name is Makelau? A. Moses Elana.

Q. Sometimes they call you Moki? A. Moki.

Q. Sometimes they call you Mokilani?

A. No, Moki Elana.

Q. Could you see that hawser that went from the poop down to the anchor? A. I can't see that.

Q. So you don't know that is tight?

A. I know it is taut.

Q. How do you know?

A. Because we keep on pulling.

Q. Why couldn't you see it?

A. It is under the water.

Q. You never saw that line at all?

A. No, because I didn't take notice for that line.

Q. You couldn't see it? A. No.

Q. Every line that you saw from the "Celtic Chief," from one side of the stern to the other side, every line was slack? A. Yes.

Q. And you could see all of the lines plainly because the search-light was there? A. Yes.

Q. But you didn't see the Miller anchor line?

A. No, because it is deep in the water. [1631—797]

Q. You couldn't even see it where it came up to

(Testimony of Makelana.)

the "Celtic Chief"?

A. I could see it on the stern.

Q. When did you see it there? Where were you when you saw it there on the stern?

A. Well, we put in that line because we know that line was on the stern.

Q. But when you were working at the capstan you couldn't see it, could you? A. Can't see it.

Q. It was only because you were pulling on the capstant that you knew it was taut? A. Yes.

Q. And every line that you saw from the capstan clear around the vessel was slack? A. Yes.

Q. All the time? A. Yes.

Q. Don't you know that that line went right over to the poop of the vessel of the "Celtic Chief"?

A. Which line?

Q. Miller's line?

A. I don't know it. I never take notice.

Q. Why could you see that if you couldn't see the other lines? A. Which line, that line?

Q. Why didn't you take notice of that?

A. The line from the stern? Can't see her.

Q. Can't see her? A. Can't see her.

Q. Why? A. It's deep in the water.

Q. Why couldn't you see it where it came up to the "Celtic Chief"?

A. The line from the "Celtic Chief"?

Q. Yes, to the Miller anchor?

A. Well, the lines coming on the boat we could see them, but when we pulling we could see them coming, but the line in the water, can't see that.

Q. Couldn't you see the line where it left the "Cel-

(Testimony of Makelana.)

tic Chief"? A. No.

Q. It hung right straight down? A. Yes.

Q. You went up on the poop once or twice? [1632—798] A. Sir?

Q. You went up on the poop deck?

A. Like this. Suppose I was working on the capstan; I can't see that line. If I go to the railing I could see the line.

Q. You saw it when you went to the railing, did you? A. Yes.

Q. Where were you, then, when you saw it?

A. I went on the back end, stern.

Q. You went on the poop deck? A. Low down.

Q. That line was down in the water?

A. Like this. In the water.

Q. Went right straight, didn't it? A. Yes.

Q. Why was it you couldn't see that line?

A. Because that line was down.

Q. It went down too straight?

A. Went straight.

Q. It went too straight, so it was impossible for you to see it? That's right, is it? A. Yes.

Mr OLSON.—That's all.

Cross-examination of MAKALENA on Behalf of
Libelant's Inter-Island Steam Navigation Co.
and Matson Navigation Co.

Mr. WARREN.—Q. Did you, at any time, see the block on the third tackle loosened up and carried forward and fastened on again? A. Sir?

Q. Did you see them moving the third tackle, carry it forward again and get ready for a new pull?

Mr. WEAVER.—I object to that, if your Honor

(Testimony of Makelana.)

please, as not proper cross-examination. [1633—799]

The COURT.—Objection overruled.

Q Did you understand my question?

A. No, sir.

Q. When you said on the first jump that the tackle dropped down, what did you do then? Just tighten up again on the capstan, take in the slack? Is that all you did when the tackle dropped down?

A. When the tackle dropped down on the first jump?

Q. When the tackle dropped down then what did you do? A. We have to take up the slack.

Q. Is that all you did?

A. When we got the slack there's another boy to fix them up the block.

Q. What did they do?

A. They put back the block like it was before.

Q. They get it loose and pull the blocks apart and carry one block further out for another pull?

A. I can't tell you that, because I was on the capstan.

Q. Well, some other boys did that?

A. Some other boys did that work.

Q. Did you see them do it?

A. When the time they say haul the slack in they say wait a minute and they say they want to fix the block.

Q. What did you do with your rope that you had on the capstan? Take it off the capstan?

A. The slack?

Q. Yes.

(Testimony of Makelana.)

A. They didn't take no slack from the capstan.

Q. You kept the rope on the capstan? A. Yes.

Q. Didn't take it off so as to let out a little of the slack?

A. Sometimes we taut up and fasten up and then run away rope again from the capstan.

Q. You would get it loose from the capstan?
[1634—800]

A. Yes, and the cable wire is already fastened and we have to get another piece again.

Q. You would get it loose from the capstan and another slack and you go forward? A. Yes.

Q. Did you see them do that?

A. I was on the capstan. Part of the boys was working unhooked the strain and part of the boys on the capstan.

Q. How many times did they do that?

A. I didn't take notice how many times they do that?

Q. Was it once or twice or four or five times?

A. Somewhere about four or five times.

Q. Not over that? Somewhere about four or five times?

A. I think about a little over four or five times.

Q. How many men did it take to move that block?

A. There is too many boys there; I can't count how many.

Q. Good many working at it?

A. Yes, because I can't tell how many men doing that job because some hauling the blocks, some doing something else to get our rope taut.

Q. To get the rope through the blocks?

(Testimony of Makelana.)

A. Yes. I can't tell how many men doing that work.

Q. There was more than one man?

A. More than one man.

Q. As many as six men?

A. I can't tell. Might be six. More than one man as far as I know.

Q. One man could have carried that block?

A. One good man, yes, he do it.

Q. One good man could do it?

A. Yes, but they were hurrying to do the work.

Q. They weren't hurrying?

A. Yes, because Captain Miller was there and make the boys do the work.

Q. You think one man could do that, take and pull it over where they needed it?

A. More than one man.

Q. Suppose he's a good man? [1635—801]

A. He could do it then, but it is a hard job. He can't do it that way.

Q. Do you think you could do it if you were alone.

A. Suppose not hurrying for the work I could do myself.

Q. You could take the block and pull back the block?

A. Yes, I could do it myself. Suppose that kind of job, big job like this, I can't do it along.

Q. How many lines did the "Mikahala" have?

A. From her to the "Celtic Chief"?

Q. Yes. A. One line.

Q. Sure she didn't have three?

A. Three lines?

(Testimony of Makelana.)

Q. Yes. A. No.

Q. Could you see the stern of the "Mikahala"?

A. Yes.

Q. Wednesday night? A. Yes.

Q. You could see that she had only one line coming over? A. Yes.

Q. Only one line from the "Celtic Chief"?

A. Yes, sir, one line.

Q. If there had been two lines you would have seen them? A. Sir?

Q. If there had been two lines you would have seen them? A. Yes.

Q. There was only one?

A. As far as I know only one.

Q. As far as you know? Aren't you sure about it? A. Pretty sure about one line.

Q. You are sure of that? A. Yes.

Q. That's all she had on Wednesday, one line to the ship? A. That Wednesday night?

Q. Yes. A. Yes.

Q. Wednesday afternoon?

A. Yes. I see him Wednesday [1636—802] afternoon.

Q. Only one line Wednesday afternoon?

A. Yes, only one line.

Q. Now, you could see the "Arcona" lines just as well as you could see the "Mikahala" lines? Just about the same? A. Yes.

Q. Could you see one better than the other?

A. Yes.

Q. Could you see one better than the other or just the same? A. Just the same.

(Testimony of Makelana.)

Q. You couldn't see the "Mikahala" line better than the "Arcona"?

A. I could see the "Mikahala" same as the "Arcona."

Q. Just as easy to see one as the other?

A. Yes.

Q. So that when you say the "Arcona" line went in the water five or six inches and ten or fifteen feet of the "Arcona," the other line was about the same. The "Mikahala" line about the same as the "Arcona" line? A. Just about the same.

Q. And the "Helene" line just about the same?

A. Yes.

Q. "Likelike"? A. Yes.

Q. So you mean that the lines of all these steamers, the "Mikahala" and the "Arcona" and the "Helene," all of their lines just had ten or fifteen feet or their line under water and the rest was out of water?

A. The "Arcona" line is in the water the same as the other two.

Q. All the lines are about the same?

A. Yes, sir, but the "Arcona" line is not the same as the "Mikahala," ten or fifteen feet.

Q. What was the "Arcona" line?

A. The "Arcona" line is different than the "Mikahala" line because [1637—803] the "Mikahala" line is in the water and the "Helene" line in the water.

Q. More in the water than the "Arcona"?

A. No.

Q. Not so much? A. Not so much.

(Testimony of Makelana.)

Q. The "Arcona" line more in the water than the other lines? A. Yes.

Q. Then if the "Arcona" line was only ten or fifteen feet in the water, how much were the other lines? As much as that? A. Nearly as much as that.

Q. Five or six feet less than ten or fifteen feet?

A. Less than that.

Q. Five or six feet? A. Between five and ten.

Q. You think that's about all there was of the "Mikahala" line and the "Helene" line that was under water? You are sure of that?

A. So far as I guess, about between that. Five feet.

Mr. WARREN.—That's all.

Recess.

Redirect examination of MAKALENA on behalf of
Miller Salvage Company.

Mr. WEAVER.—Q. You were working in the forecastle on the capstan. I want to know of the slant or level condition. What was the condition of the deck of the forecastle with regard to the main deck. Was it the same level or condition?

A. Different.

Q. Same parallel or different?

A. Different level.

Q. How was it different?

A. The bow is on the reef standing up like this.
(Indicating.)

Q. What do you mean, "like this"?

Mr. OLSON.—Let him finish. [1638—804]

A. And the stern is down and the shape of the ship is like this. The difference comes, where I'm work-

(Testimony of Makelana.)

ing on the capstan is higher than the stern.

Q. By the stern you mean the after end of the forecastle, the behind of the forecastle was lower than the fore end.

Mr. OLSON.—May I have it appear on the record that the witness indicates a slant with his arm?

The COURT.—That won't enlighten the record any.

Q. When you say astern, you mean—what do you mean? What part of the forecastle or the ship are you talking about?

A. Taking the bow and the behind.

Q. I want you to confine yourself to the forecastle only. Do you know which is the forecastle on a vessel? A. No.

Q. The forecastle is that platform where you were working on the capstan? Do you remember that?

A. Yes.

Q. Now, tell me about the deck of the forecastle only, not about the ship. Which end of that forecastle deck was higher? The part toward the stern or the part toward the bow?

A. The part toward to the bow.

Q. About what kind of a slant was that again? Do you know what a slant is? A. No.

Q. Well, incline. A. Well, was it—

Q. How far was it out of level. Do you know what level is? A. Yes.

Q. How far was that different from level?

A. Yes, it's different from level.

Q. How much different from level if you can tell us?

(Testimony of Makelana.)

A. Because the capstan is higher than the deck of the ship.

Q. Do you mean the ship is higher? [1639—805]

Mr. STANLEY.—One moment. And the ship—let him finish.

A. And the ship was on the level and the bow was on the reef is higher.

Q. Can you say whether or not the deck of this fore-castle was the same as the deck of the ship or not? A. The deck of the ship is the same.

Mr. MAGOON.—Where the capstan is, was all the same? A. The deck is not the same.

Q. What's the difference?

A. Because the capstan is high and the deck is lower down. You come from the deck and go about two or three, about five or six steps and you go up to the capstan.

Mr. WEAVER.—How high past this main deck was that capstan deck, that fore-castle deck? That fore-castle deck is where the capstan was standing?

A. How high the capstan?

Q. No; how high was the fore-castle deck above this main deck?

A. About just about couple inches over my head.

Q. And this fore-castle deck you noticed that was just a few inches above your head; is that what you mean? A. Yes.

Q. Now then, from that place going forward, was there any greater steps between those decks than *were place after*? Was it higher than the deck in the front than it was at the back part of this fore-castle deck? A. Where the capstan is?

(Testimony of Makelana.)

Q. Yes.

A. Is higher. You go on deck in front to get higher than the capstan is.

Q. Was it higher than above the main deck?

A. If the main deck is same as capstan.

Q. You know the level of the main deck? You know how the main deck was?

A. Yes. [1640—806]

Q. And you know how the after end of the fore-castle was—just a little above your head? A. Yes.

Q. Now, from that place how was this deck of the forecastle towards the bow? Did it run down or did it run up or was it level?

A. It was the same as where the capstan is.

Q. Do you mean it was level or not?

A. It would be like this. (Indicating.)

Q. Do you know what a slant is? A. Slant.

Q. Which way did it slant? A. From the bow.

Q. From the bow which way?

A. From the bow to the capstan.

Q. From the bow to the capstan and then toward aft? A. From the place climbing up to the step.

Q. To the steps where you walked up on it?

A. Yes.

Q. How much was that slant you showed in cross-examination—you showed the slant of the vessel and a rough indication?

Mr. OLSON.—I object to the question on the ground it is improper redirect examination. I withdraw the objection.

Q. What was that incline? How was that slant?

A. Slant is not very much.

(Testimony of Makelana.)

Q. Can you show it again? You indicate it again. You show us. You showed on cross-examination how much the vessel was slanting, now how much was this forecastle deck slanting?

Mr. WARREN.—I think, your Honor, it's time to interpose an objection that this is not proper redirect examination.

The COURT.—Objection overruled.

Q. Can you show like you did before what that slant was? That incline? A. Yes.

Q. How much? Show by your arm.

A. Like this. (Indicating.) [1641—807]

Q. Now, suppose toward the Reporter is the bow of the vessel and toward the Judge of the court is the stern of the vessel; can you show us how much slant there was on that deck toward the capstan?

Mr. OLSON.—I am willing to have it appear of record that the witness indicates the same slant as he indicated as to the main deck.

Q. Do you know what the bulwarks of a vessel are?

A. No.

Q. Do you know what the railing is? A. Yes.

Q. Was there any railing around this forecastle or not? Forecastle deck?

A. The railing begins on the side.

Q. Where you were working at the capstan was there any railing about the deck there?

A. What you mean by railing.

Q. This is a railing on the witness-box. Fence—do you know what a fence is? A. Yes.

Q. Was there anything like a fence around that forecastle deck where you were working on the capstan?

(Testimony of Makelana.)

Mr. MAGOON.—On the side of the ship.

A. I don't know.

Mr. WEAVER.—That's all.

Mr. OLSON.—I think that's all.

[Testimony of J. Sato, for Libellant.]

Direct examination of J. SATO, a witness called on behalf of libellant Miller Salvage Co., and sworn.

Mr. WEAVER.—Q. Do you know the Miller Salvage Co? A. Eh?

Q. Do you know the Miller Salvage Co? [1642—808] A. Yes, I know.

Q. Were you working for the Miller Salvage Co. at the time the "Celtic Chief" was on the reef at Honolulu, December 6, 7, and 8, 1909?

A. I think so; I don't know that ship name; I see that book. I don't think that's ship name. 6 December, 1909?

Q. 1909. A. I don't put down the ship name.

Q. Did you know a ship on the reef on December 6? A. Yes, 6 December, 1909.

Q. Did you do any work for the Miller Salvage Co.?

A. Yes. Captain, he give orders and I sent all seven o'clock.

Q. Captain Miller ordered some work?

A. That's time, 29, seven o'clock, some work.

Q. What do you mean, 29?

A. You want name?

Q. What do you mean, that time 29?

A. 6 December.

Q. That time 29, what?

A. That evening, seven o'clock. I send Tuesday.

(Testimony of J. Sato.)

Q. What did you send Tuesday?

A. That Captain Miller boat.

Q. And what did you do?

A. After I go see eight o'clock how many men. I can't tell. Count them 29 men.

Q. How many men did you count?

A. That's time twenty-nine. After 7 December, twenty-two; seven after day overtime and Monday. I think all mistake that.

Q. What was the work of these men?

Mr. OLSON.—Let him go on.

A. I don't know what kind. I think saltpeter cargo he take him from boat in schooner.

Q. Take him off the "Celtic Chief" put on the schooner? A. Yes.

Q. For Captain Miller? A. Yes. [1643—809]

Q. Now this, how many men you work there?

A. Altogether sixty day.

Q. Sixty days?

A. Yes, sixty days I move that fertilizer.

Q. From the "Celtic Chief"?

A. Yes, sir. Take him off cargo go back here leave cargo Hackfeld wharf.

Q. Did you get paid for your services?

A. Sunday?

Q. Did you get paid for your services.

A. I go office captain, he pay me. He pay all.

Q. How much did the captain pay you?

A. I think altogether 109.00.

Q. Did you give a receipt to Captain Miller?

A. Yes, I go office.

Q. I show you—

(Testimony of J. Sato.)

Mr. OLSON.—I don't think the receipt is competent evidence. It is not an admission that can be used—

Mr. WEAVER.—Withdraw it.

Q. What did you do with this money, Mr. Sato?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial.

The COURT.—I allow the question.

A. I cash money, I pay same day, pay those coolie.

Mr. MAGOON.—Pay what?

A. Paid those men that work.

Mr. MAGOON.—That's all.

Cross-examination of J. SATO on Behalf of
Libellee.

Q. Who had charge of these men? A. Eh?

Mr. OLSON.—Q. Who had charge of these men?

A. Eh?

Q. Who had charge of these men? Who was the boss? A. Eh?

Q. Who was the boss over these men?

A. That's me. [1644—810]

Q. Were you out on the "Celtic Chief"?

A. I send them all together.

Q. Were you out on the "Celtic Chief"?

A. Yes.

Q. When?

A. I got that's time after seven o'clock the time I go see how many men. I tell captain. He ask how many men I put down name.

Q. Where? A. That ship, I don't know.

Q. You go out to the ship?

A. Yes, I got out the ship.

(Testimony of J. Sato.)

Mr. OLSON.—I'll ask counsel if they are making the claim that this is a list of men that were working independently of the list of men in the book which has been introduced in evidence by Dick Clarke.

Mr. MAGOON.—Yes, a different lot of men altogether.

Q. You know that they all worked on that ship?

A. No, not all the time go.

Q. You don't know anything about it? You don't know whether they worked or not? A. I see.

Q. What did you see? A. All men.

Q. You no see them work?

A. I no see them work. I go Hackfeld wharf. I don't know what schooner, "Concord" or "Mokolii."

Q. How much a day for one man?

A. The price?

Q. Yes. A. All dollar and half day.

Q. Dollar half a day? A. Some overtime.

Mr. OLSON.—I move to strike the testimony of the witness on the ground it doesn't appear that he knows whether or not they performed any of the services for which this money is alleged to have been paid.

The COURT.—The motion is denied.

Mr. OLSON.—No more questions.

Mr. WARREN.—No questions.

Mr. WEAVER.—That's all, Mr. Sato. [1645—

[Testimony of Frederick C. Miller, for Libelant.]

Direct examination of FREDERICK C. MILLER, a witness called on behalf of the Miller Salvage Co., Ltd., and sworn.

Mr. WEAVER.—Q. What's your name?

A. Frederick C. Miller.

Q. Are you the superintendent, were you the superintendent of the Miller Salvage Co. at the time the "Celtic Chief" went on the reef in Honolulu?

A. I was.

Mr. OLSON.—I'll admit that the Miller Salvage Co., Ltd., is a corporation.

Mr. WARREN.—Same admission on the statement of counsel that that's the fact.

Mr. WEAVER.—Yes, it is.

Mr. OLSON.—Of course, my admission is based on the same representation of counsel.

Mr. WEAVER.—It's admitted that the Miller Salvage Co. is a corporation at the time these operations were performed in December, 1909.

Q. Captain Miller, you's heard Sato's testimony?

A. Yes.

Q. Do you know whether or not he had any men working on the "Celtic Chief"?

A. I had men there that this man employed, got for me. This man, Sato, is a head of an employment agency and when we want men in a hurry we go to him and he supplies them and I needed men and went to him.

Q. Did they work?

A. Did they work? Every one of them.

Q. Were they—what were they doing? [1646—812]

(Testimony of Frederick C. Miller.)

A. That lot that he supplied me was employed handling the cargo, partly.

Q. Did the Miller Salvage Co. pay any money to these men or to anyone for them?

A. Paid them \$109.00, I think; whatever that book shows.

Q. Was any receipt given for it? A. Yes.

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant, and immaterial.

Mr. WARREN.—I make the same objection.

A. As a matter of fact, I didn't know I had that receipt.

Mr. OLSON.—You didn't know you had that receipt?

A. No, I didn't.

Mr. WEAVER.—How did you come to have anything to do with the "Celtic Chief"?

A. I went out there when she went ashore that morning, Monday morning.

Q. December 6?

A. On December 6 I went out on the dock. I went down on the dock about seven o'clock and Frank Lonche pointed out to a ship outside that he said was ashore.

Q. What time of day was this?

A. This was about a few minutes after seven, as near as I can remember. And he had his launch right there and I jumped into the launch and he took me out to her. When I got out to her the tug "Intrepid" and the Young Brothers' launch, "Huki Huki" were pulling on it, one on each quarter. I went aboard and saw the captain of the ship and the Pilot Macaulay and asked them if they wanted any

(Testimony of Frederick C. Miller.)

assistance. They said they did, they wanted lighters to lighten their cargo. I asked them what was going to hold her on the reef, what was going to keep her from [1647—813] going further when we was lightening her cargo. He said the tug "Intrepid" and the "Huki Huki" would do it.

Q. How large a boat was the "Huki Huki"?

A. I proposed then to them that we lay our big anchor and hold the ship. They wouldn't listen to that. They said it would be easy to pull her off and they told me to hustle in town and get our lighters and get enough men to lighten her, and I came right ashore with Lonche on the launch and took the "Concord" out with a big gang of men; then came back and took the "Mokolii" or "James Makee" and then came out and got the "Kaimiola." At any rate, we got there that time, the three boats. We gathered up all the men we could gather around the beach. I sent to the Pacific Mail Line for their foreman of stevedores, Dick Clarke, and told him to gather up all the men he could get. He brought a gang and we started discharging cargo.

Q. Did you see Sato at that time?

A. I don't know whether I got him just at that time or not, or whether I got him with the last load. I think I got him with the last load on the "Makee" because he came out about dusk to count his men and point them out to me. He pointed out which was his men and counted his men so that when I come to pay them off there would be no question about padding the payroll. That's what he came for. After we

(Testimony of Frederick C. Miller.)

worked on that ship that night until Tuesday morning and somewhere about three o'clock, between three and four we had the last load finished and the captain came to me and told me to get them discharged and come right back again and continue the lightering. I told Captain Henry then that the ship had gone on the reef farther than when I had first joined him in the morning [1648—814] and that if we kept lightering his ship he'd lose it. He said then that the boats, he had then, besides the "Huki Huki" had let go in the meantime during the day sometime and gone away, and he had, if I remember right, at that time, the "Mikahala" and the "Helene" and "Like-like." I don't know just how many she had two or three of the Inter-Island boats holding on to her besides the "Intrepid." They were pulling on her hard that time and he said that they could hold him from going on the reef. I told Henry then, "It's useless to lighten up this cargo because the steamers will go in as fast as you go in. We've been lightering her and taken out four or five hundred tons and you've gone further on the reef."

Q. What did you base that statement on?

A. The fact that she had gone in Monday.

Q. How did you know that?

A. I knew that from ranges taken from the ship and ranges taken from the shore.

Q. What ranges did you take and what did you observe?

A. I took a range at the foot of Fort Street. There's a little telephone booth there and there's a

(Testimony of Frederick C. Miller.)

spot on the quarantine island and that ship had gone in at least half her length. From on board the ship we could take a range of the—there is absolutely no question about the ranges. That ship went in Monday at least half her length and I would say more. I would say nearly three-quarters of her length. You couldn't judge exactly to a foot. I told that man distinctly that he'd lose his ship if he didn't hold her there and he said come back with the lighters. I came ashore, I think, about four o'clock Tuesday morning.

Q. When did this conversation take place?
[1649—815]

A. Right at the rail of the "Celtic Chief."

Q. When?

A. On Tuesday morning just as I left the boat, say about half-past three. I got in about four o'clock. When I got in to the dock we started the gang discharging the lighters and instead of sending them right back we sent a gang of men up to the yard and got down our steel hawsers and our blocks and our big anchor. It took us up to about half-past four or five o'clock. Took us about that time to get all that equipment and gear aboard of the "James Makee." We then went out to the "Celtic Chief."

The COURT.—How long did it take to get outside?

A. It took me about three-quarters of an hour to get outside. When we got to the "Celtic Chief" we went around on her port quarter and dropped our big anchor and sent a surf line in to the "Celtic Chief" by the captain of the "Mokolii," and the boat's crew

(Testimony of Frederick C. Miller.)

and the "Celtic Chief" took that surf line and made it fast on her bitt, on her port quarter, and then the captain of the ship or Pilot Macaulay, I don't know which, ordered it let go and he told—by the bye, by way of interpolation, this surf line was the line that we used to haul our big cable, our steel cable from the "James Makee" to the ship. They let that go on the "Celtic Chief," either the pilot—either Pilot Macaulay or Captain Henry, I don't know which, but the captain of the "Mokolii" took it and we hauled it in, and the captain of the "Mokolii" came back and reported that Captain Henry was in a rage because we hadn't come back with lighters and he didn't want anchors.

Mr. OLSON.—Move to strike the last statement of the witness as to what the captain of the "Mokolii" said, on the ground it is hearsay and likewise all the testimony [1650—816] of the witness as to the letting go of the hawser and all the statements of other persons as to things which the witness himself did not observe.

Mr. WARREN.—I'd like to move to strike on the ground that this testimony with regard to the surf line is hearsay, it appearing that he was not there himself and was reported to him by the captain of the "Mokolii."

The COURT.—The hearsay statements may be stricken.

A. I saw that line made fast and I saw it let go, myself. He couldn't—

Mr. STANLEY.—Just a minute, Captain.

Mr. MAGOON.—What was the next thing that you did, Captain?

(Testimony of Frederick C. Miller.)

A. It was about dark when that surf line was let go and I waited until the following morning at daylight, and just after daylight I took a boat and went aboard the "Celtic Chief" myself; saw Captain Henry and Pilot Macaulay, both of them were very angry because we hadn't come back with lighters to finish the lightering of the ship. I told Captain Henry then that it was suicidal for him, as far as the ship was concerned, to lighten up without something astern to hold it and that personally I did not care to become a part to his ship being lost. At that time I thought that the ship was insured with the British Lloyds and we have an understanding with them to do our best for their ships. I have regretted since that she was not. He didn't want any anchors and he didn't want anything else and I told Captain Henry then, thinking that the ship was insured in the Lloyds, I said to him, "Captain, all right. I'll take my boats and the anchors and go ashore and if your ship is lost and stays here on the reef, I'll see to it you lose your certificate." I told [1651—817] him that right on his own deck. I told him, furthermore, we had lightened the ship and had all the power boats pulling on the ship hard, the "Mauna Kea" had parted her twelve-inch—

Q. Do you know that, Captain?

A. I do know that they all pulled hard. I know they pulled like hell on that boat and parted a new twelve-inch line. I saw it. I was on the deck. Pulled hard and dented her mast. The dents are on the mast to this day. There is no question about it. Monday they had the "Intrepid," the "Helene," and

(Testimony of Frederick C. Miller.)

the "Mauna Kea," and the "Mauna Kea" had parted what I think to be a twelve-inch line, and pulled as hard as ever I saw a ship pull with her propeller on anything, and snapped it and never budged the ship. And yet the man wanted to continue lightering the ship and let her go further on the reef. And I recalled this fact to him and I said to him, "We're perfectly willing to go ashore." And then he crawled. I asked him why did you let go that surf line last night and he told me he didn't like the position, and I told him, "If you don't approve of that position we'll change that position and put it in any position that suits you." And they talked a little while among themselves and they said, "Place that anchor astern and heave up her purchase." So that took considerable shifting and went directly astern at a point that they indicated and dropped it there. From that time on we never had any friction with them. We rove in our purchase, hauled it taut and during the forenoon, sometime, I think, I don't judge exactly, but I should say about eleven or twelve o'clock they cut the "Intrepid's" line, one of the crew of the "Celtic Chief" cut the "Intrepid's" [1652—818] steel hawser and sent her adrift and the German cruiser, "Arcona," came in and took the position right over our anchor. Her stern was right over our anchor buoy. The commander of that ship ordered me to take it up as it was in his way of the "Arcona," in his broken English that I have heard, "Take it away! Take it away! All right." And we didn't take it up and he ran his line in and started pulling on her, I should

(Testimony of Frederick C. Miller.)

say, as near as I can remember, along about one o'clock, twelve or one o'clock—somewhere about that time. The "Arcona" started pulling on her and she broke a steel hawser. Then she borrowed the ship's steel hawser; used that on one side and had one of her own on the other. She took—one of the steel hawsers from the "Arcona" was taken in on the "Celtic Chief" starboard midship chock and the other went on her port after main deck chock. They got them fairly taut and then there was a—the Inter-Island boats had been pulling her all the afternoon during the high water. They had been pulling hard all the time on her, on the "Celtic Chief." Along in the evening, about dusk or just before, the German, the commanding officer of the German cruiser, Captain Henry of the "Celtic Chief," Pilot Macaulay, and, I think, Captain Haglund, I'm not sure, had a consultation in which—

Mr. OLSON.—If the Court please, if the witness is about to relate what the conference was and the conversation that went on in that conference, I think it should appear first that the witness was there and heard.

A. I was. I heard the conference. I'm not sure about Captain Haglund being present, but I was present and heard what was said because they were standing right alongside [1653—819] me. They inquired from the pilot what time it was high water and he hunted around for a newspaper and he got the morning's paper from somewhere and he looked in that paper and he said, "Well, it's high water along about one o'clock to-night," which would have

(Testimony of Frederick C. Miller.)

been Thursday morning. It was arranged then that the commanding officer of the cruiser, between him, Pilot Macaulay, and captain of the ship, that it would be useless to pull on that ship until just before high water. If I remember, the hour was stated about an hour before the hour of high water, would be a good time to start to pull. There was an arrangement—this commanding officer made some sort of an arrangement with them by which he would leave aboard the vessel—

Mr. WARREN.—At this same interview?

A. At the same time, at the same consultation.

Mr. OLSON.—And you heard it?

A. I heard that. I saw this arrangement. It was a sort of horse pistol. This is a matter of two years ago and what I'm stating here I want to state facts as I saw them. As near as I can remember, the instruction of the commanding officer was when she would show one, the captain of the "Celtic Chief," desired him to pull; two stars, as he put it, two shots signified that the ship had started, and three for him to go ahead full speed. I don't know what the arrangement between Captain Haglund and the pilot was regarding the Inter-Island boats, but the night before we had watched them. She always carried one red light in the starboard mizzen rigging all the time she was there.

Mr. WARREN.—I desire, if the witness is trying to argue out what the signal had been because of previous [1654—820] conditions—

Mr. MAGOON.—You were saying that you didn't know of the arrangement between Captain Haglund.

(Testimony of Frederick C. Miller.)

A. I inferred—

Mr. WARREN.—I object to that, being inference of the witness and not his knowledge.

Mr. OLSON.—Same objection.

The COURT.—Objection sustained.

A. We hove our purchase taut in the afternoon.

Mr. MAGOON.—Before you go on to that, did you know of any arrangement as to putting up red lights between anybody?

A. I can't swear. No, I can't say that I heard that arrangement between Captain Haglund and the captain of the ship or the captain of the "Celtic Chief" as to the meaning of that second red light.

Mr. OLSON.—Now, if the Court please, I object to counsel exchanging here in the examination of this witness.

Mr. WEAVER.—What happened after this conference?

A. After—

Q. Withdraw that. Was that all about the conference, all that happened there?

A. After that conference the commanding officer went aboard to his ship and Captain Haglund went away. I don't know where Captain Haglund went. I think on board one of the Inter-Island boats. I can't say where he went. He went away. We heave our tackles in the main deck. We hove them taut that afternoon to test them to see if anything was going to break. About eight o'clock or after our men had had their supper I [1655—821] told the men to get busy with those tackles and keep a steady strain on them and saw if they could get anything.

(Testimony of Frederick C. Miller.)

Along about, I should say about eight or half-past eight, the captain of the "Celtic Chief" came to me and said that Captain Haglund had sent them some sandwiches. He had a lot of sandwiches. She was a hungry ship, any way. We got nothing to eat off her except what we got from the Inter-Island people. And they invited me down to the captain's room to have some of this pie and sandwiches. I said, "All right, Captain. I'll be with you in a minute." I went right on deck and told the boys, "You keep heaving."

Mr. WARREN.—You went there?

A. I went down on the main deck and told our boys to keep on heaving. I could get to the captain's cabin either from the main deck or through a pilot-house. I stayed there eating some of the sandwiches and some of the pie. The pilot said, "Now, if we only had a glass of beer, if Haglund had only had sense enough to send us a bottle of beer it would be all right." I said to him, "Pilot, you wait about half or three-quarters hours and I'll put you aside the German cruiser and we'll get some beer from her." They laughed at that as a joke.

Mr. OLSON.—I move to strike that statement to Captain Macaulay and Captain Henry on the ground it is a self-serving statement.

A. I went out on the deck every once in a while to see those men then I'd go back in the cabin there with the pilot and the captain. Stayed there and ate lunch and telling stories. Finally, when I got out on deck one time I met one of the men. He said, "The ship is [1656—822] starting. We're com-

(Testimony of Frederick C. Miller.)

ing." "Slack on our lines," I said, "little, very little." He said, "You come here and look at the range." I went there to see the range and thought she was moved a little. So I told the boys to keep on heaving away and I'd show them a trick or two before morning. We went back into the room. The pilot was telling us a good story and she felt a jump and the captain jumped up and he said, "Pilot, she's moving," and he says, "How the hell can she move? They are not pulling. They won't start to pull until they get the signal."

Mr. OLSON.—Move to strike the statement of Pilot Macaulay on the ground it is hearsay, incompetent, irrelevant and immaterial.

Mr. WARREN.—I would like to enter my objections to the same.

Mr. OLSON.—I'll withdraw my objection, and Mr. Warren does the same.

Mr. WARREN.—Yes.

Q. Now go on.

A. Captain Henry said to him, "Why, this man's men is pulling," pointing to me. Macaulay said, "Sit still, sit still. He's only tightening his tackles. He can't get her off." So the captain sat down again. He jumped out of the chair, of the seat. About, I should say, anywhere from ten to twenty minutes later on, I cannot say exactly the time, she made another jump. You could feel it then strong and that time the pilot jumped and Henry jumped up and started to run to the companion-way. When they got up on deck Macaulay went and looked over the stern and he said, "Bill, your anchor is dragged,"

(Testimony of Frederick C. Miller.)

and he looked over the stern and he said, "The anchor isn't [1657—823] dragging; the ship's coming off; look at the 'Arcona.' See where she is!" and we'd shortened up the distance at least one-half, the probability is more. Then I said to him again, "Look on your range lights," and he looked at the range lights and the order was given, "Fire your fireworks and up your second signal light." And everybody was flying around there pretty busy chopping lines and letting go hawsers. Before this, the man, I think it was Dick Clarke—I'm not sure. Dick Clarke, I saw him out on deck and then the Kanakas were shouting, "She's coming! She's coming!" and I didn't want the captain or Pilot Macaulay to know that the ship was coming off.

Q. Where was that in regard to this conversation you have just related?

A. Just before she had fetched the second bump. I'd run out in the meantime. I knew the ship was moving, I could hear the Kanakas plain. I was afraid that they would hear it.

Q. How long before this time you rushed out did you tell these men to shut up?

A. Oh, I had gone out between the two bumps after the first bump when I got Macaulay and the captain quiet again, seated down telling stories again and I had gone out in the meantime, then I come back. I'm frank to tell you I wanted them to stay down in the cabin. I wanted that ship to come off without their knowledge.

Q. Well, when you went out on deck all this was doing, describe what you saw.

(Testimony of Frederick C. Miller.)

A. Well, it was not something—it's a scene that occurs just once probably in a man's lifetime, for this reason, there are no two salvage operations that's just [1658—824] alike, and I have never witnessed a scene just like it. Each man was busy with the safety of his own property. Captain Haglund had quite a large number of men aboard and they were busy attending to their lines and clearing. Some of the lines was cut and some let go. The "Arcona" was busy getting out of the way because she was afraid we'd bump her and we came very near doing it, too. Our own lines we was afraid would humbug us. We had trouble in getting the shackle out of the chock. We had a launch alongside and that launch was fast to a scow that had a hoisting engine. Now, that was fast and we didn't want to tow that to sea. Some of our men were busy with that, taking care of our launch, and it was some, I should say fifteen or twenty minutes, more or less; very much excited. The ship cleared and the "Arcona" pulled her away.

Q. Was any other vessel pulling her away?

A. I think the "Mikahala." I'm not certain. I think the "Mikahala" possibly saved the "Arcona" from a bump.

Q. Why did you want to keep the fact that you were pulling the "Celtic Chief" quiet from Captain Henry and pilot Macaulay?

A. I'll tell you why. We'd started to work on that job in the morning contrary to my own good judgment. In the first place we had considerable difficulty in getting Captain Henry to adopt the plan

(Testimony of Frederick C. Miller.)

of putting an anchor down and the "Helene." They had made an arrangement without, practically ignoring me, and if the "Celtic Chief" came off they had known that the "Celtic Chief" was being pulled off by the Miller Salvage Co.'s equipment they would have given those signals to the German cruiser to begin pulling and they would have [1659—825] given those signals to the German cruiser to begin pulling and they would have shared in whatever glory and so far expense. We'd have to share in the credit of pulling her off. I wish, your Honor would permit me to say by way of interpolation that the German cruiser had absolutely no more to do with the actual pulling of that "Celtic Chief" than you.

Q. Why do you make the statement about the "Arcona" that you have just made?

A. Why did I make that?

Q. On what facts do you base your judgment?

A. I'll tell you why, Judge Weaver. The newspapers next morning when the "Celtic Chief" was floated and the "Arcona" had her off and she began to send up a lot of search-lights.

Q. Search-lights?

A. Rockets and search-lights and the whole business of the "Arcona" was on an ——— plan.

Q. You must have some reason for it.

A. I don't know who first made that claim, but it was current here in town that the "Arcona" pulled the "Celtic Chief" off, and we thought that inasmuch as we had worked night and day for three days and had spent a great deal of money and was instrumental in pulling her off, to say the least, we thought

(Testimony of Frederick C. Miller.)

we should have some credit.

Q. What do you mean by "we."

A. "We" means the Miller Salvage Co.

Q. Why did you describe the operation of the "Arcona"?

A. As an ——— because I'll tell you. She came near being bumped by the stern and we got them there and they couldn't take her after we got her [1660—826] afloat and they had to turn her over to Captain Haglund to bring her in to an anchorage. I was there, a witness to that.

Q. How about the work of the "Arcona" on the "Celtic Chief" while you were pulling on the anchor and the time you went down to the cabin?

A. As I have stated, the time I should say was about one or two o'clock, between one and two o'clock, as near as I can remember, the time she took her position there eleven or twelve o'clock. After one or two o'clock she had one hawser. There's no question about that and she broke the hawser.

Mr. STANLEY.—Little more slowly.

A. Then they put the second line on and fooled around there hauling that taut and getting them adjusted just to suit their ideas as to how it should be.

Mr. WEAVER.—Then what did they do?

A. They tightened those lines that afternoon but that evening they were not hauling up to the time the "Celtic Chief" came off, as far as I could observe from the "Celtic Chief" and I was watching pretty close.

Q. How thick were those lines?

A. Well, those lines, that is the line they broke,

(Testimony of Frederick C. Miller.)

was a steel line. It wasn't very big, I should say. Giving you my best judgment, Mr. Weaver, I should say between an inch diameter; not very thick.

Q. Could those lines pull that vessel off?

Mr. OLSON.—I object to the question on the ground it does not appear the witness is qualified to answer. There is no foundation laid.

Mr. WARREN.—Same objection.

The COURT.—Sustained. [1661—827]

Mr. WEAVER.—How long have you been to sea, Captain?

A I have been to sea, with the exception of the seven years that I have been in Honolulu, with that exception, and that has been more or less at sea, since I've been here, about forty years. All of the time at sea with the exception of seven years; part of this has been sometimes in sea.

Q. And what part of the world have you had experience and what kinds of vessels?

A. I've worked on salvage ships, I've run the blockade, and I've handled merchant ships.

Q. What did you mean by running the blockade?

A. I ran the blockade for the Cubans and in the Asian waters.

Q. What experience have you had in salvage work?

A. I've worked on a good many vessels on the Atlantic Coast. Not many here.

Q. How many years?

A. Oh, I should say eighteen or twenty years, at least.

Q. How many here?

(Testimony of Frederick C. Miller.)

A. The only ones I have worked on here that I can recall offhand, the bark "Ernest Ranier," the "Alexander Black," the "Celtic Chief," and the "Helga."

Q. In the "Celtic Chief" operations did you have any experience with cables or ropes? A. Yes.

Q. What experience have you had with those?

A. I've had this experience and I might state that it's one—I don't know if you would call it a fundamental law, but it's a fact that a ship ashore the first thing to do before you lighten her cargo is to hold her where she is before you start lightening any cargo. Now, that's a fundamental fact or it's a law of [1662—828] salvage. We have found also by experience, and it's not alone my own but that of the best salvage companies throughout the world, that heavy anchors and purchases properly applied is infinitely superior for the purpose of pulling off a stranded ship, to any steamers or any number of steamers propelling with a propeller.

Mr. OLSON.—Object to the testimony and move to strike, that is, the last part of the testimony with reference to the superiority of purchase tackles and anchors over towing steamers and steamers pulling by means of propellers, on the ground that it is incompetent, irrelevant, and immaterial; furthermore, that it is not responsive, no foundation laid; furthermore, the witness is not qualified to answer and furthermore that it is hearsay.

Mr. WARREN.—Same objection, your Honor.

Mr. MAGOON.—On the ground that it's not responsive, we're willing to have it stricken.

Mr. OLSON.—That's the last statement with

(Testimony of Frederick C. Miller.)

reference to the comparison of purchase tackles and anchors and steamers pulling with their propellers.

Mr. WEAVER.—I'm asking you a line of question, how much you know about these things that you're going to testify to by and by; therefore, when I ask you a detail question, confine your answers to the question. We're first getting your experience and what you know about these things in general.

A. What experience have I had with pulling ships off with tackles—is that your question, Judge Weaver?

Mr. WEAVER.—Yes. Question withdrawn. Captain, before you came into this country, what experience, if [1663—829] any, had you with vessels in which you used cables or lines in the operation of salvage?

A. I had seven years' salvage experience right in New York.

Q. What was that experience? Give us an outline of it.

A. As I stated before, no two salvage operations is just alike but that tackle and that anchor it was a rule among those salving ships—

Mr. WARREN.—I object, may it please the Court.

Q. What did you do?

A. I always laid an anchor and tackles and pull on it just the same as I did with the "Celtic Chief."

Q. In those seven years' experience in New York.

A. Yes, sir.

Q. What kind of cables did you use?

A. Sometimes used wire hawsers. In the early days we used manilla hawsers.

(Testimony of Frederick C. Miller.)

Q. Well, you've used wire hawsers?

A. In recent years.

Q. What experience have you had?

A. I worked with the French —— pulling her off. There was pulled.

Q. What did you pull her off with?

A. We pulled her off with anchors and cables laid from the anchors to the ship and purchase and hove off just exactly as on the "Celtic Chief."

Q. Have you had occasion to note the strain on cables?

A. There is no method by which people which work on a salvage job, there's no method known to me by which a man can determine the strain of that cable. When we use a cable we buy it upon the maker's guarantee that it's up a certain tensile strength or breaking strain, as we call it. [1664—830]

Q. Do you know anything about breaking strain of cables the size the "Arcona" had to the "Celtic Chief"? A. I do.

Q. Have you had any experience with such cables?

A. I used it there and the same cable was used on the "Manchuria."

Q. Have you had any experience to tell how strong they are?

A. I only have the maker's guaranty for those and they are one hundred and twenty tons breaking strain.

Q. One hundred and twenty tons for what purpose?

A. You could put that on without breaking.

Q. It would lift one hundred and twenty tons?

(Testimony of Frederick C. Miller.)

A. Yes, lift one hundred and twenty tons.

Q. This line running from the "Celtic Chief" to the "Arcona," you noticed it, did you not?

A. I saw a steel hawser.

Q. Do you know the lines running from the "Arcona" to the "Celtic Chief," those two lines, do you not? A. Yes.

Q. Were those the lines you were talking about?

A. I'm talking about my own lines. I don't know anything about other lines, what the "Arcona's" strains were.

Q. In your experience on the Jersey Coast that you have spoken of, was there any other assistance given other than the cable and anchors?

A. They always used a boat to take care of her when she was afloat.

Q. Did they use boats while they were working with the anchor and cable?

A. Not as a rule. When you are pulling a boat off the beach the tackles will pull just so far.

Q. Have you had any other experience? [1665—831]

A. I had the steamship "Don" on the Bramah's Reef.

Q. How was she pulled off?

A. By anchors and purchases in the same manner.

Q. What was done with steamers?

A. Had a tugboat standing by and just as soon as the ship was taken off the reef the tug has got to take her in tow, because there is nothing to hold her.

Q. Were there any vessels pulling her?

A. No.

(Testimony of Frederick C. Miller.)

Q. Any other experience?

A. Yes, steamship "Bellivere."

Q. What means were used?

A. Anchors, only we used manilla hawsers, used fourteen-inch manilla instead of steel.

Mr. OLSON.—If the Court please, I submit all this is incompetent, irrelevant, and immaterial. It doesn't appear that the conditions are the same.

Mr. WARREN.—I'd like to say at this point that the purpose was to qualify the witness as an expert so as to permit him to qualify as to the tensile strength of lines.

Mr. WEAVER.—Do you know, can you say, whether or not these "Arcona" lines to the "Celtic Chief" were strong enough to pull her off the reef in that condition she was on Wednesday afternoon?

Mr. OLSON.—I object to the question on the ground that it appears from the testimony already given that the witness is not qualified to answer.

Mr. WARREN.—I want to have my same objection on the record.

Mr. WEAVER.—Do you know the tensile strength of the cable the size of those cables from the "Celtic Chief" to the "Arcona"? A. I do not.

Q. Can you determine them as a seaman by any means, a man [1666—832] with your experience. How do you determine? Can you determine?

A. Yes, I can determine, yes.

Q. How?

A. I saw the line from the "Celtic Chief" that ran to the "Arcona." It was a good line.

Q. Have you any opinion about the strength of

(Testimony of Frederick C. Miller.)

that line? A. Yes, it had—

Mr. OLSON.—Just a moment.

Mr. WEAVER.—What is that based upon?

A. That's based upon my experience in buying other wire lines myself.

Q. What experience have you had in buying and using wire lines like that?

A. I've bought over \$6,000.00 worth right here in Honolulu.

Q. Before that?

A. I couldn't tell you. I used a good many lines. There is no question that was a good line, Judge.

Mr. WARREN.—I move to strike the answer as not responsive.

The COURT.—Motion granted.

Q. Have you had any experience before you came here with regard to the strength of such lines, cables, as the "Celtic Chief" had to the "Arcona"?

A. Yes, I've used them.

Q. Well, what is your experience from such use—do you know *the* tensile strength means?

A. The breaking strength of that line, of the line that she used from the "Celtic Chief."

Mr. OLSON.—I object to the witness testifying as to what the tensile strength means on the ground he is [1667—833] not qualified to answer.

A. It means, the tensile strength is the strain that the line will stand before it breaks.

Q. Now, then, what experience have you had with lines like the line running from the "Celtic Chief" to the "Arcona," here or elsewhere?

A. I've used them for salvage operations and I've

(Testimony of Frederick C. Miller.)

used them for towing.

Q. What can you say about their strength?

Mr. OLSON.—I object to the question on the ground it doesn't appear that the witness is qualified to answer, if the Court please.

Mr. WEAVER.—Withdraw the question.

Mr. WARREN.—I'd like to make the same objection.

Mr. WEAVER.—You have had experience with those lines, what experience have you had with them?

A. Had? I have had a good deal of experience with those lines. I don't claim and am not an expert on the tensile strength of steel hawsers.

Q. Are you able to determine the tensile strength of a steel hawser? Do you know as a seaman?

A. The method I have, and it's the only method known to me, is to take the maker's guaranty of the breaking strain. For every fraction of an inch of its diameter, according to the make of the line, whether it's plow steel or chilled steel, has a certain breaking strain and you buy that line, that sized line, with that guaranty and there's no method known to me to determine the strength of the wire by which they may be pulling on board the ship to test it themselves.

Q. Are there any scientific works that you have?

A. Yes; we have Trautwine and that shows the breaking strain, and most of us carry him with us.
[1668—834]

Q. Can you tell from that?

A. Not without consulting him.

Q. Can you by using Trautwine?

(Testimony of Frederick C. Miller.)

A. There is Hazel or there is Rodwell Catalogue.

Q. Now, in using your lines in the past, have you had any experience in determining the strength of these lines from the "Celtic Chief" with Trautwine in regard to such a case?

A. I can only answer that, Judge, by saying this—please excuse me for reiterating it again—the fact that when we take a line for a certain purpose, whatever that purpose may be, whether it's a steel rope for dragging a plow through a field, or whether it's for pulling stumps or pulling ships that's gathered, that strain, for instance, in our own work, that strain is dependent on the size of your blocks because the weakest link is what governs the whole outfit and we could get a wire hawser for the salvage operations. We want the best there is. We take the maker's guaranty. The users of wire rope don't know what the breaking strain is.

Q. Have you had enough experience of wire ropes to have any opinion, to know about the breaking strain of a wire rope when you see it? A. Yes.

Mr. OLSON.—Move to strike and object to the question on the ground that it calls for a conclusion of the witness and he is not qualified to answer.

The COURT.—Motion granted.

Mr. WEAVER.—Have you had experience with cables that have broken under a strain? A. Yes.

Q. Could you determine under those circumstances the strength of those cables or not?

Mr. OLSON.—Object to the question, the ground it calls for a conclusion of the witness, no qualification shown, [1669—835] and no foundation laid.

(Testimony of Frederick C. Miller.)

Mr. WARREN.—Same objection.

Mr. OLSON.—I withdraw my objection if it is clear that the witness is merely asked to answer yes or no.

Mr. WEAVER.—That's all.

A. No, I couldn't tell the strength of those cables to the "Arcona."

Q. I'm speaking in general, not to the "Arcona." The cables that were broken. You've said you had experience with broken cables. I'm speaking of broken cables similar to those to the "Arcona" and the "Celtic Chief" in the position that they were.

A. I've had experience, Mr. Weaver, and I want to state to you right now, it's something that I'm frank to tell you that I cannot give. There's so many factors that enter in the consideration. It may be burned in the galvanizing, the quality of the iron may be inferior and other things.

Q. Have you see any cables of the size of the cables between the "Celtic Chief" and the "Arcona" that pulled a ship off the shore?

Mr. OLSON.—I object to the question on the ground it is incompetent, irrelevant and immaterial; furthermore, that it's calling for a conclusion of the witness as to whether or not lines of that character did bring off any vessel; he is being qualified to answer, and furthermore, he has said he isn't qualified to answer.

The COURT.—I feel rather in doubt to allow this question. [1670—836]

Wednesday, August 23, 1911.

Q. On the evening of Wednesday before you went

(Testimony of Frederick C. Miller.)

down to the cabin and had this talk with Captain Miller and Macaulay, did you or did you not notice the lines of the various vessels attached to the "Celtic Chief"? A. I did.

Q. What vessels were attached to the "Celtic Chief"?

A. The "Mikahala" was attached on her starboard quarter. The "Mikahala" was attached to the "Celtic Chief" by a line running to the starboard quarter chock on the maindeck. The "Arcona" was fast by two steel hawsers, one running to the midship deck of the "Celtic Chief" on the starboard side and one on the after deck on the main deck, on the port side. The "Helene" came next.

Q. On what side?

A. On the port quarter. The "Likelike" was next on the port quarter. Those were the ships and the only ships that was attached to the "Celtic Chief" on that night.

Q. Before you went down into the cabin with the captain and the pilot, where were you on board the "Celtic Chief"?

A. I was in various parts of the "Celtic Chief." I was on her poop deck aft, on her main deck, at times even I would go up on the forecastle deck to see how the men, what they were doing there. I didn't confine myself to any one particular part of the ship.

Q. What was the position of these lines to these various ships for an hour or two prior to your going down to the cabin?

A. The lines to the "Arcona" were slack and hang-

(Testimony of Frederick C. Miller.)

ing in the water; the lines to the "Mikahala," "Helene," and "Likelike" were not as taut as when they were pulling at full speed at high water on the [1670 $\frac{1}{2}$ —837] night previous or that day.

Q. From what points did you observe?

A. I could see these lines clearly from the fore-castle.

Q. From where?

A. From the fore-castle deck, anywhere. I could see them also from the poop deck aft. And by looking, and why I distinctly know the "Arcona's" lines were slack was because I helped two of our men with a capstan bar to lift her line on the main—

Q. How were they on the deck?

A. The "Arcona's" lines came on the main deck and went across to the ship's mainmast through a midship chock and in crossing that deck we took it, crossed right across the deck. When our men would lift the block off of that line—it would catch on that line and we would have to take a capstan bar and lift that line off so the block would slide under it.

Q. Why did you observe the other lines?

A. I just observed the other lines in a casual way from the poop deck. I could see them, as I said before, from the fore-castle deck.

Q. What made you take notice of them?

A. I'd naturally take notice of what they were doing.

Q. Why did you take notice?

A. Because I wanted to know who was pulling that ship. It was my business to know what was pulling that ship.

(Testimony of Frederick C. Miller.)

Q. At any of the time were you near the capstan?

A. Yes, I was up there too.

Q. Were you on the other side of the ship, of the forecastle about where the bars would be?

A. Yes, I was on both sides of that. Our men was getting tired and had to have reliefs and sometimes the reliefs [1671—838] wouldn't come promptly. I was up there at various times to see that there was the proper amount of men on those bars, and from that forecastle deck you had a better view of all the lines except the Miller Salvage Company's lines than you had from any other part of the ship, barring the poop deck.

Q. How could you see those two lines?

A. Because those lines to the "Celtic Chief" from the "Arcona" didn't come in over her stern, but one of them came in near the midships on the starboard side and the other one came in on the port side and you could see them where they touched right down in the water.

Q. Could you see them if you were standing near the end of the bars of the capstan while the bars were pointing at the side of the ship?

A. If you'll allow me to explain. The forecastle deck of the "Arcona" was a little higher than the poop deck and a trifle higher than the midship-house amidships. She has a sheer, a little sheer to her.

Q. What is a sheer, Captain?

A. It's what you try to explain as an incline. It is a synonymous word for incline or plane. This forecastle deck only had around it two bars, iron bars about half or three-quarters of an inch diameter bar

(Testimony of Frederick C. Miller.)

rail, just as though this was a bar and this was another, the rail was just about as high as this (indicating). This was a three-quarter-inch bar.

Mr. WEAVER.—Let the record show that the witness points to the witness-box, the rails about as high as the top rail of the witness-box.

Mr. MAGOON.—Three feet, three inches.

A. About three foot, three inches. The end of the capstan bars from the capstan, came to within about four-foot, from [1672—839] three to four foot from this rail. About that. I seeing whether the men were heaving properly, I'd come out to this rail, look along the ship's side, because, as I said before, it was a special vantage ground from which to see anything. From that point of view you couldn't see the stern lines of the Miller Salvage Company's anchor, but you could see this line out on the starboard and that line.

Q. When you say, this line out on the starboard, what do you mean?

A. I mean the "Mikahala" line and the "Arcona" line.

Q. And on the port quarter?

A. We could see the "Helene's lines.

Q. Did the gallows, you called it, in the middle of the ship, interfere with the view of those lines?

A. No, sir, because none of those lines came in amidships and the gallows was amidships.

Q. Was there a house?

A. There was a house and that was amidships.

Q. You have referred to the poop, what, if any, effect did the poop of the vessel have upon your vision of these lines?

(Testimony of Frederick C. Miller.)

A. It obstructed none of the lines except the Miller Salvage Company's and except one of the "Arcona's" lines went in possibly over her stern, but from the "Celtic Chief" you see them where they dropped down into the water.

Q. You frequently—were you on this poop deck before you went down to this consultation in the cabin?

A. I was frequently on the poop deck. As I said before, I didn't confine my position to any one position on the ship. I was on the poop deck; we'd go along the deck and go up on the forecastle deck and back again.

Q. I'm referring to a time about an hour prior to your [1673—840] going to this consultation in the cabin. How many times do you mean by frequently?

A. All the time, because when I went in the cabin with the captain to get lunch, I was there, I'd come out on deck, stay between fifteen and twenty minutes, go back and come out and go back and come out everywhere.

Q. From the cabin back to what place?

A. I come out on the main deck once and told the men to shut up and I told them to keep quiet.

Q. I'm speak prior—

A. I was on deck all the time.

Q. What deck?

A. On the "Celtic Chief" deck.

Q. You mean on the main deck?

A. As I said before, Judge Weaver, I wasn't in any one particular place, but on the main deck, on

(Testimony of Frederick C. Miller.)

the poop deck, and on that forecastle there.

Q. Can you tell me how many times you were on the poop deck, about an hour prior.

A. I was there a dozen times.

Q. During the hour that you were going over the ship continually, during any of that time did you take any notice of the lines to those various vessels?

A. Yes.

Q. What did you notice?

A. I was watching all their lines. As I said before, I wanted to know who was pulling on that ship. The lines to the Inter-Island steamers, the "Mikahala," "Helene," and "Likelike," were not slack; they were fairly tight, but I judge that their propellers was turning over dead slow. I don't know, I think they were turning over dead slow. Their lines were hanging in the water. There's no question about that. [1674—841]

Q. Prior thereto, at any time, had you observed those same vessels pulling? A. Yes.

Q. When? A. The night before. They started pulling the night before, on Tuesday night. Those ships started, pulling, by my watch, a little after eleven o'clock and they were taut during the day. Monday when the "Mauna Kea" were there, those ships were pulling and would pull those lines straight out of the water. When those ships were pulling the line would come up right out of the water.

Q. Would they touch the water?

Mr. OLSON.—I object to the question on the ground it's leading.

Q. How long did they continue?

(Testimony of Frederick C. Miller.)

A. As long as they were pulling full speed as you could see from the turn of the propeller.

Q. Did they continue that straight condition all the time?

A. They continued that straight position.

Q. While pulling full speed?

A. Yes. They'd lift those lines out of the water. When they slacked up apparently—for instance, when the tide began to fall and it was low water there was no sense for them to pull then, as you can understand. Their lines would slack up. The use of their propeller and the turn in the water showed that in the daytime. I couldn't see that at night clearly enough to swear to it, but I could see the lines dipping in the water.

Q. Now, then, Captain, you went down into the cabin and had this conversation with the pilot and Captain Henry?

A. Yes, I had lunch there with them.

Q. And then you came out and made some remarks to the crew about shut up?

A. Yes. [1675—842]

Q. When you came out did you observe those lines or not? A. When I came out we saw those lines.

Q. How could you see those lines?

A. I had no manual labor to do there myself. I wasn't pulling on lines or heaving on the capstan and all I had to do on that ship was to watch my own lines and the lines of the other ships. That was all I did there.

Q. When you came out and made this remark, on what deck did you go?

(Testimony of Frederick C. Miller.)

A. I came out of the cabin there on the main deck and shut our men up from shouting and making a noise.

Q. Did you not observe these lines?

A. I stayed on deck, I suppose, five or ten minutes.

Q. Did you or did you not observe those lines?

A. I did observe those lines.

Q. What did you notice?

A. I notice they were slack then.

Q. The same as before? A. The same as before.

Q. And how long did you observe them so?

A. There was no movement that was apparent to me from the time that they had started pulling that afternoon until the second red light and the three stars went up, on any ship.

Q. When you saw those three stars go up and the second red light, what did you see then?

A. By golly, they were all pulling to beat the band.

Q. Of course, with reference to these lines.

A. The lines were all taut. Almost the same time the order was given to cut away the various ships and I don't think that those ships pulled. It wasn't apparent to me that they'd pulled at all until the second red light and the three stars went up. [1676—843]

Q. On what do you base your statement?

A. Upon the condition of the lines on her, the appearance of the lines.

Q. What was the appearance of the lines just then?

A. They were hanging dipped into the water. Neither the "Arcona's" lines, neither the "Mika-

(Testimony of Frederick C. Miller.)

hala's" lines, neither the "Helene's" lines, nor the "Likelike" lines, were out of the water.

Q. And that's the condition up to the time of the signal of the three stars?

A. That was the condition when I saw it.

Mr. OLSON.—If the Court please, every other question Judge Weaver is leading the witness.

Q. When did you first observe the "Celtic Chief" moving seaward?

A. The first that I observed that was when one of my men, and just who it was I can't recall, whether it was Tom Mason, Captain Wiesbarth, or Dick Clarke, but one of my men told me that she was moving and said that they were getting a little on the hawser. Then they called my attention to the lights. "Look at the light, Captain, she's surely moving."

Mr. OLSON.—I move to strike that portion of the witness' answer which purports to state what some other person, one of his men, stated to the witness, on the ground it is hearsay.

Mr. WEAVER.—So far as the man's conversation, as to what the men said, I have no objection.

The COURT.—The motion is granted.

Q. Now then, when this remark was made to you, what did you see, Captain?

A. I saw that she had moved by a change of the lights.

Q. The lights?

A. The range lights that [1677—844] we had.

Q. And after that what did you observe, or at that time what did you observe about the lines of the "Arcona" and other vessels?

(Testimony of Frederick C. Miller.)

A. They were the same, slack, in the same condition that I have told you.

Q. What did you observe, if anything, about your lines, the Miller Salvage lines?

A. That *were* were getting a very little of them.

Q. Do you know that of your own knowledge?

A. I know that of my own knowledge because I saw the slack coming in a very little. I stayed there for a few minutes to assure myself to a dead certainty and then went back to the cabin for fear them fellows would come out.

Q. When you said very little, how much did you mean on the main hawser?

A. The main hawser. We only got a very little when we start, an inch at a time. That ship didn't come off with one great bound. As I heard here a man who I have never spoken to about the case. He testified inch by inch.

Mr. WEAVER.—If possible, try and confine your answers just to my questions; then we won't make these motions.

A. We got inch by inch on that main hawser.

Q. Can you give us an idea of how many feet or inches she gained on the main hawser at that time?

A. No, I cannot. I can tell you in another way. The range lights had opened about twelve inches clear. That I know for a certainty, but I didn't measure, but I didn't go and put a tape-line on our main hawser to see how many inches or feet.

Q. When you say the range lights moved about twelve inches [1678—845] apart, what did that indicate as to the movement of the "Celtic Chief"?

(Testimony of Frederick C. Miller.)

A. That indicated that the "Celtic Chief" had moved seaward just that much.

Q. How much?

A. The difference between the two range lights.

Q. How much was that in inches, if you can state?

A. That would be a problem of trigonometry. Whatever the difference was between the lights.

Q. You can't say in inches or feet?

A. I can only give you an approximate idea.

Q. What was it approximately?

A. When they first showed me I should say probable four or five feet. I've given you approximately now.

Q. Now then, after you observed this you just stated that you went into the cabin? A. Yes.

Q. When next did you observe these lines?

A. The next time was between or after the first bump. When she fetched that bump, I heard it as well as the captain of the "Celtic Chief" and knew what it meant because if a ship comes off one inch—

Mr. OLSON.—I object to it and move to strike on the ground it is irresponsive.

The COURT.—I'll strike out that portion of the answer regarding Captain Henry's observations.

Mr. OLSON.—Now, just a moment.

The COURT.—And what the bump indicated should be stricken out.

Q. What did that bump indicate, Captain?

Mr. OLSON.—I object to the question on the ground the question has been already asked and answered. [1679—846]

Q. How long after that bump, Captain, how long

(Testimony of Frederick C. Miller.)

was that after the time when the—when you thought that the ship was coming off, went out, was this bump that you spoke of. You have just been talking about this bump.

A. Yes. I'm trying to remember, Mr. Weaver. I'm trying to remember what time and I can't tell you exactly. I can give you only an approximate idea. I would say probably from twenty minutes to a half hour.

Q. And between those two times what had you been doing?

A. Between those two times I was in the cabin eating sandwiches and pie.

Q. Had you been out of the cabin during that time?

A. I came out between the two. I came out of that cabin at least a half a dozen times. I came out distinctly after the first bump. I came out to shut our men up.

Q. You came up to shut up the first time?

A. I had to come out and tell them between the bumps. I couldn't talk native and I had to tell one of my men that spoke native to keep them fellows quiet.

Q. Between these times, twenty minutes or a half an hour, how many times had you been out of the cabin? A. Between the two bumps?

Q. No, between the time that the captain told you the ship was coming out and the time you felt that first bump.

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

(Testimony of Frederick C. Miller.)

The COURT.—You refer to the number of times?

Mr. WEAVER.—That's all.

A. I don't think I came out on deck at all.

Mr. WEAVER.—Q. You haven't answered the question properly. I'm going to ask the question between the time when the [1680—847] officer told you that the ship was coming off and the time when you felt the bump and you came out on deck that you were out on deck a half hour or so, how many times?

Mr. OLSON.—Now then, if the Court please, that may lead to a confusion of the record because it speaks of the officer.

Mr. WEAVER.—I amend the question. Person.

A. I can't tell, Mr. Weaver. I came out on deck in the interval between their first telling me, then I went back in the cabin, then to the best of my recollection I didn't come out again at all after the first bump.

Q. Now then, when you came out after this first bump, what were the condition of these lines to the various vessels? A. They were slack.

Q. What was their condition with reference to the water—were they the same as they had been just prior to you coming off?

A. Practically the same condition, probably a little slacker, if anything.

Q. At what time did you observe this condition, Captain, after that?

A. I didn't observe them again after that until after the second bump.

Q. Until after the second bump? A. No.

(Testimony of Frederick C. Miller.)

Q. Up to the time of the second bump, Captain, what were you doing with the Miller Salvage line, if anything?

Mr. OLSON.—I object, if the Court please, on the ground that the record shows on the witness' own testimony, shows he was in the cabin during the time of the first bump until the second bump.

Mr. WARREN.—I make the same objection, your Honor. [1681—848]

Mr. WEAVER.—I withdraw the question. After the first bump, Captain, up to the time of the second bump, where were you?

A. After the second bump?

Q. After the first bump up to the time of the second bump, where were you?

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

A. I was in the captain's room.

Mr. OLSON.—I withdraw the objection.

A. I was in the captain's room on the "Celtic Chief" with the exception of the one time between the two bumps that I have already stated that—

Q. After you came on deck, at the time of the second bump, did you observe these lines?

A. After the second bump?

Q. Yes. A. Yes, sir.

Q. Now, at that time what agencies were in force, if you know, with regard to pulling on the "Celtic Chief"? A. After the second bump?

Q. Yes, and you came on deck?

A. And I came on deck? The "Celtic Chief" was afloat and that line was hanging straight up and

(Testimony of Frederick C. Miller.)

down her stern. The "Celtic Chief" had lessened the distance to at least one-half, between her original position and the "Arcona." The "Helene," "Likelike," and "Mikahala," I think, were pulling almost simultaneously. The order were given by Inter-Island representatives to cut away the lines, cut away and let go the lines and the "Arcona" pulling her out to sea.

Q. When you felt the first bump, Captain, and went out on deck, what agencies were pulling on the "Celtic Chief"? [1682—849]

Mr. OLSON.—Object to the question on the ground it has been asked and answered, if the Court please.

A. Miller Salvage—

The COURT.—Pardon me. I'll allow the question.

A. Miller Salvage Co.'s lines.

Q. What other agencies, if any?

A. I didn't notice any. I didn't see any other agencies pulling.

Q. Weren't the "Likelike" lines there?

A. The "Likelike," the "Helene," and the "Mikahala," had a strain on all their lines, though I don't know, I can't swear what they were doing aboard those vessels because I wasn't there. They apparently were turning over dead slow. The lines were in the water.

Q. And the "Arcona's" lines?

A. The "Arcona's" lines was in the water and the "Mikahala" wasn't pulling.

Q. When you came on deck after the second bump,

(Testimony of Frederick C. Miller.)

can you tell the condition of the lines to the "Arcona"? When you first came on deck?

A. When I first came on deck they were slack. They were slack as that with a bight. You couldn't see them at all; they were hanging flat down on the water the same as the Miller Salvage Co.

Q. When you first came on deck, what was the condition of the lines of the "Mikahala," the line of the "Mikahala"?

A. I didn't observe that so closely because I came on deck after that second bump. The orders were given after those three signals and the second red light and almost right immediately afterwards the orders was to cut adrift because, as I stated before, we was almost on top of the "Arcona."

Q. Now, Captain, did you see any signals after you came [1683—850] on deck that day?

A. Yes, I saw the signals given.

Q. How long after you came on deck were those signals given? A. Not ten seconds.

Q. What signals were given?

A. The second red light in the rigging and the three stars.

Q. After that, prior to these signals, what were the conditions of the lines to the "Helene," if you know?

A. I don't know.

Mr. WARREN.—At what time?

Mr. WEAVER.—Just prior to the signal, did you know the condition of the lines to the "Likelike," just immediately prior?

A. No, I don't. I was down in the cabin just immediately prior.

(Testimony of Frederick C. Miller.)

Q. You came up on deck?

A. I came up on deck and in ten second, I should say, as near as I can remember, it just took the pilot the time he used going from here to where Mr. Olson is sitting and sing out, "Set up that second red light and throw off three balls." About ten seconds.

Q. And subsequent to that? A. If there were—

Q. Subsequent to that second signal, what happened to the lines of the "Arcona," if anything?

A. Mr. Weaver, if you'll allow me to put it my way, I have testified repeatedly that the distance between the "Celtic Chief" had shortened up one-half the distance. Now, her lines must have been that much slack, much more slack than they were before. They weren't pulling any on the "Celtic Chief," that's a cinch, and they weren't hauling in on the "Arcona."

Q. Do you know how much freight the "Celtic Chief" had on [1684—851] her that night? Do you know how much freight the "Celtic Chief" had on her?

A. I only know what I'm told, what I was told she had. I don't know of my own personal knowledge.

Q. I'll ask you, Captain, assuming that the "Celtic Chief" had a freight cargo of 1600 pounds, that she was an iron sailing vessel of 789 gross tonnage, the tonnage under deck, 1652; net tonnage, 1709. Her dimensions, length, 266.8; breadth, 39.5 feet; depth, 92.3 feet; her moulded depth, 24 feet, 7 inches, and ask you if you had observed that such a vessel was ashore on the coral reef west of the channel at Honolulu in a position, bow-on to the shore, approximately

(Testimony of Frederick C. Miller.)

at right angles, and was under condition of wind and weather and sea which you have observed, would the slip, appearing to be more or less on the coral reef and with her bow two feet out of water, her bow about, her bow out of the water above the water line, as you had observed it, and assume that a triple purchase tackle was rigged on the deck of the "Celtic Chief" from the foremast to a position aft, made up of the first tackle of large triple blocks through which was rove a seven-inch fall, and into the luff of this was rigged a second purchase tackle, rigged into the triple block with five-inch falls, manilla rope and the falls of the second purchase tackle made fast to a third purchase tackle made up of three and one-half inch manilla rope, rove into triple blocks, and the fall of this last tackle carried to a large capstan on the forward deck, which you observed, and that there was sixteen men at work on such capstan, and assuming this apparatus was attached to a seven-ton anchor with a wire cable which you saw, and that the anchor was resting on the [1685—852] sea bottom about a thousand feet astern from the "Celtic Chief," would you say that such apparatus was sufficient one to use to pull the "Celtic Chief" off the reef under the conditions as you saw them, if the connecting cable would hold and the anchor would not come home when the strain was put on.

Mr. OLSON.—Now, then, I wish to interpose an objection, if the Court please, on the ground that the witness does not appear to be qualified to answer; secondly, on the ground that the question assumes certain conditions within the observation of the wit-

(Testimony of Frederick C. Miller.)

ness to which he has not testified; thirdly, that the question assumes certain facts to exist or to have existed, concerning which there is no testimony on the record at all; and in the third place, on the ground that the question is incompetent, irrelevant, and immaterial.

Mr. WARREN.—We wish to enter the same objection, if the Court please.

Mr. OLSON.—I ask the reporter to note another ground of objection, and that is, that the hypothetical question which has been asked does not fully and sufficiently describe the facts and conditions existing to enable the witness to give an intelligent answer which will be of any value to the Court.

I'll ask counsel to admit of record, in order that we may not have to go back over this whole record to find out, I'll ask counsel to admit that the lines which were used in those tackles were not larger than a seven-inch for the first tackle, a five and a half for the second tackle, and a three and a half for the third tackle, in circumference.

Mr. MAGOON.—We refuse to make any such admission. [1686—853]

Mr. WEAVER.—I'll withdraw the question for the present. Captain Miller, do you know the size of those three tackles? A. Yes.

Q. What was the size of the three tackles?

A. The first one was seven inches, diameter.

Q. What was the second one?

A. Seven inches, seven inches circumference, excuse me. And the second one was five inches, circumference. All this that I'm giving now is circum-

(Testimony of Frederick C. Miller.)

ference because we apply to manilla rope—I may say, by way of interlopation, we speak of steel wire by diameter. The third one was three and a half or three and a quarter. I have forgot.

Q. What was it? A. Manilla rope.

Q. What rope was this, new or old?

A. Brand new rope, all of it. Never been used before.

Q. Do you know the size of this cable? A. Yes.

Q. What was it?

A. That was a two and a quarter diameter, plough steel cable.

Q. How do you spell that?

A. P-l-o-u-g-h. 2 $\frac{1}{4}$ plough steel and, with your Honor's permission, if I may amend my statement. On yesterday I spoke of the breaking strain of that, one hundred and twenty and I believed that. Reference to Roebling, and Roebling was the make of the rope, that it was 186 ton. I was speaking from memory of the breaking strain of that rope. (Witness consults book.) This is Kent Mechanical Engineer Handbook, and I may say that most of these are taken from Roebling, they are considered standard people. 186 tons. [1687—854]

Q. What was the make of this cable that—

A. Roebling.

Q. Roebling rope. Are there tables with regard to that particular rope?

A. Yes. There are tables that Roebling publishes and this Trautwine, Kent, and Kidder derive and put in their mechanical engineer's, civil engineer's

(Testimony of Frederick C. Miller.)

handbook; use Roebling as their authority for the breaking strain.

Q. Did you have a hawser attached to the cable and between the large purchase and large cable?

A. We had a twelve-inch manilla hawser attached and two parts of an inch and a half diameter, steel rope light wire.

Q. How long was that hawser used in connection with the cable?

A. The hawser and two parts of twelve-inch manilla hawser of the steel hawser was used to lengthen out our main hawser. When we had dropped our anchor and found that the main steel hawser came only about, I'll give approximately the distance, about thirty foot from her stern, so we shackled on a manilla hawser, twelve-inch diameter.

Mr. OLSON.—Circumference, you mean.

A. Twelve-inch circumference and also the two parts of inch and a half steel wire to lengthen it out. Now, those three parts were attached to the main purchase.

Q. Were those in operation all the time?

A. Yes, all of the time from the time we started heaving in until the ship floated.

Mr. WARREN.—I didn't get that answer.

A. They were in operation all the time from the time [1688—855] we started in the heaving until the ship floated.

Q. When the ship—withdraw that. Where was the end of that steel cable with regard to the deck of the "Celtic Chief"?

A. The end of it had come in through the chock

(Testimony of Frederick C. Miller.)

over her poop deck and was along the maindeck.

Q. Was the—was this cable—well, at the time she came off, what was connecting you between the anchor and these tackles?

A. The main wire hawser, twelve-inch manilla and two parts of an inch and a half steel wire hawser. You see it was this way, Judge: the twelve-inch manilla was the weak link in our connection between the “Celtic Chief” and our anchor. There was no question about our anchor, there was no question about the steel hawser, there was no question about our purchase, but that twelve-inch main manilla rope wouldn’t stand anywhere near the same strain, so I used parts of, so I reinforced that with a wire hawser that I borrowed from the “Celtic Chief,” a brand *new that* had never been used.

Mr. OLSON.—Move to strike that part of the answer including the last statement of the witness as to the comparative strength of the twelve-inch manilla hawser with the other parts of the apparatus, on the ground that it’s conclusion of the witness and further on the ground it is irresponsive.

Mr. WEAVER.—The latter part of the answer may be stricken.

Mr. OLSON.—The motion is then granted?

The COURT.—Yes.

Q. Now, Captain, you saw this hawser and this steel cable reinforcement there? A. Yes.

Q. What was the strength of that part of your cable in [1689—856] comparison with the steel cable you had connected with the anchor?

Mr. OLSON.—Object to the question on the

(Testimony of Frederick C. Miller.)

ground that it is calling for the conclusion of the witness, it not appearing—there is no—it not appearing that the witness is qualified to answer.

Mr. WARREN—Same objection.

Mr. WEAVER.—Withdraw the question. You had a new manilla hawser, twelve inches in circumference? A. Yes.

Q. Can you say by consultation of authorities what strain that would stand? A. Yes.

Q. Have you any such authorities with you?

A. Yes.

Q. Will you give us the strain that that would stand?

A. A twelve-inch manilla approximately about thirty tons.

Mr. OLSON.—I'd like to have the reference to the book and see where the witness gets that testimony.

(Witness indicates.)

Mr. WEAVER.—Referring to Kent's Mechanical Engineer's Handbook, page 301.

A. Sixty-five thousand pounds.

Q. Captain, read the reference upon which you base your statement.

A. This is the result of thirty-five tests of 1.19 to 8.90 inches circumference. The rope was .2 to 11 pound and 40.4 pound per fathom. The strength of that rope was 1280 pounds for the first and 65,550 pounds or three thousand and three to seven thousand, three hundred and ninety-four pounds per fathom weight.

Mr. OLSON.—I move to strike all the testimony of the tensile strength. I make a motion, at this

(Testimony of Frederick C. Miller.)

[1690—857] time, if the Court please, to strike out all the testimony of the witness as to the strength of the twelve-inch manilla hawser that was used by the Miller Salvage Company as a part of the anchor line to its anchor, on the ground that it does not appear on the record what the weight per fathom of that rope was and the reference in the text-book is per fathom.

In order that we may ascertain the qualifications of the witness to testify, I would like to be permitted to ask one or two questions.

Captain Miller, do you know what elements are taken into consideration by the authors of this book in determining the tensile strength of manilla hawsers?

Mr. MAGOON.—I object to that as entirely immaterial.

The COURT.—I'll allow the question.

Mr. OLSON.—Answer the question.

A. What elements are taken into consideration by the author of this book? No, I do not.

Q. You don't know whether or not in giving the strength of that manilla hawser they take into consideration the weight of the manilla hawser as well as its size—do you know that?

A. I don't know it; no.

Q. You don't know whether they did or not?

A. No; I don't know; they consider size and all the tensile strength of all rope, as I know it is based upon its size and we never take into consideration its weight.

Q. But you are not an expert on tensile strength?

(Testimony of Frederick C. Miller.)

A. I am not.

Q. As far as you know, the author of the book from which you have read may have regarded weight as of importance as well as size of manilla hawsers? [1691—858] A. He may have.

Q. That's as far as you know?

A. As far as I know.

Mr. OLSON.—Now, I renew my motion, if the Court please.

The COURT.—I want to give the other side every opportunity. I'll withhold the motion for decision.

Mr. OLSON.—Do you know, Captain Miller, whether or not manilla rope varies in weight?

A. Yes, it does.

Q. You take a twelve-inch manilla hawser and one piece may weigh more than another piece of the same thing or size?

A. It may weigh if it's specially made for a special purpose.

Q. As far as you know, it may, though they are woven in the same way?

A. A little, maybe; they do not as a rule.

Q. Have you bought rope?

A. Yes, sir, we had. We paid for it by the pound.

Q. Have you ever bought twelve-inch manilla rope? A. Yes. That is you, we bought it.

Q. Have you any opinion how much manilla hawser weighs, if anything? A. Not sure.

Q. Manilla hawsers do vary a bit, do they?

A. No more or less.

Q. Do you know who were the makers of this

(Testimony of Frederick C. Miller.)

twelve-inch manilla hawser? A. No, I do not.

Q. There are various manufacturers, are there not, of manilla hawsers?

A. Under two or three names, but I guess it's one trust, like buying crude oil. [1692—859]

Q. You know there are various manufacturers of manilla rope?

Now, then, I submit it is clear that manilla hawsers do vary, more or less.

Recess.

Mr. WEAVER.—Have you any other scientific authorities give the strength of hawsers? A. Yes.

Q. What have you? A. Trautwine.

Q. Will you refer to Trautwine and by such reference say what the strength, tensile strength of the new manilla hawser is twelve inches in circumference?

A. Trautwine gives it as thirty and six-tenths pounds.

Q. Is there any qualification of the kind of hawser use—what are the statements or what do you see about the various, what strength?

A. In actual practise we find that manilla rope varies greatly in its strength, and Trautwine states that it may vary up to twenty-five per cent.

Q. And this particular hawser you were using was what age? A. It was a new hawser.

Q. Can you say from those tables what the strength of the steel hawsers which were rigged on to this hawser, auxiliary to the hawser?

A. Yes; eighty-one tons each.

Q. How did you figure that out?

(Testimony of Frederick C. Miller.)

A. I didn't figure it myself. Trautwine figures for me. He gives the breaking strength of an inch and a crucible steel as eighty-one tons; there were two parts [1693—860] of that, which would make one hundred and sixty-two tons.

Q. What kind of steel was this hawser that you used?

A. Inch and one-half was crucible steel; our main hawser was plough steel.

Q. Now, your main hawser had what tensile strength?

Mr. OLSON.—Object to it on the ground the question has been asked and answered.

The COURT.—Objection overruled.

A. I answered yesterday—I stated yesterday on the stand that the strength of that hawser, and I was stating it from recollection, was 120 tons. Trautwine gives it as 186 ton and so does Roebling.

Q. What kind of a hawser? What age of a hawser?

A. That was a hawser that had only been used on one previous occasion. It had been used on the "Manchuria."

Q. What do you say about its condition with regard to strength? A. The condition—

Mr. OLSON.—I object to the question on the ground it doesn't appear the witness is qualified to answer.

The COURT.—The objection is overruled.

Q. What can you say about the condition and appearance of this hawser in regard to strength?

A. Both its condition and appearance were good,

(Testimony of Frederick C. Miller.)

excellent. It didn't appear to have suffered any by its one use there.

Q. Did you observe, Captain, what the condition of the bottom of the sea was around the "Celtic Chief"?

A. The ocean-bed where the "Celtic Chief" was, was a coral bottom, generally speaking, level but with more or less—it was not a level sandy bottom, it was lumpy.

Q. Lumps of what? [1694—861]

A. Of coral.

Q. What was between the lumps of coral?

A. And some of them was lava rock. Principally coral and lava rock.

Q. Was there anything else beside coral and lava rock? A. Not that I saw.

Q. Did you see any sand?

A. I saw no sand there.

Q. What position was the "Celtic Chief" lying in with regard to the line of the breakers?

A. She was lying at right angles as near as could be determined to the line of the breakers.

Q. How was her bow pointing?

A. Directly toward the breakers.

Q. Was there any sea running at that time, Monday, when you first saw her?

A. There was a heavy swell running all day Monday, Monday night particularly. Monday night I recall it a heavy ground swell. Tuesday, I didn't see anything after we left Tuesday afternoon and at that time the swell had gone down. During Wednesday there was swell, considerable swell, but not as much

(Testimony of Frederick C. Miller.)

as on Monday and Monday night.

Q. What was the direction of this swell?

A. The swell was nearly in a fore and aft line with the ship, a little on the starboard quarter, if anything.

Q. What can you say what the tendency of this swell was to make any change in the position of the "Celtic Chief," if you know?

A. Yes, I do know. The tendency of that swell was to heave her in on the beach.

Q. Now, was there any other tendency beside merely heaving the ship on the beach that you could observe?

A. Any other tendency? [1695—862] Yes, there was a tendency of our ships lying lightering alongside to execute the heaving of that ship in on the beach, and that was one of the reasons why I refused to come out and continue the lightering.

Q. Was there any other change of direction than that you speak of, which the waves or swell tended to give?

Mr. OLSON.—I object to the question on the ground it is leading, if your Honor please.

The COURT.—Objection sustained.

Q. Can you say of any other effect it, any other effect that this swell would have other than forcing the "Celtic Chief" forward as you have described?

A. None other. It could have but one effect on her and that was to pile her up.

Q. Would the fact of the swell being on the starboard side of the "Celtic Chief" have any effect whatever?

(Testimony of Frederick C. Miller.)

Mr. OLSON.—The answer was, it might have been but the swell was not on the starboard side.

The COURT.—Is that right, Captain?

A. That's what I said; yes, sir.

Q. Is there any difference between starboard side and starboard quarter?

A. Yes, a difference of forty-five degrees.

Q. Tell us again what direction this swell was with regard to the lines of the "Celtic Chief"?

A. I have said that the swell was, as near as I could approximate it, directly astern, if anything, a little bit on the starboard quarter, a very trifle.

Q. Now, if the swell was on the starboard quarter, had that any effect whatever, effect or change the position of the "Celtic Chief"?

Mr. OLSON.—Object to the question on the ground it's [1696—863] leading; furthermore on the ground the matter has been fully covered by the witness. I withdraw my objection.

A. There was no apparent change in the direction of that ship's lying from the time I went aboard of her until she came off. The only movement of the ship was toward the beach.

Q. What was the condition of wind during Monday, Tuesday and Wednesday?

A. Monday morning it was one of the haziest mornings that I have ever witnessed in the Hawaiian Islands since the seven or eight years that I have been here. From the conditions one would prognosticate a Kona. As a matter of fact, there was a light southerly wind, not heavy, not strong, but a light southerly wind with a heavy swell, ground swell heaving in

(Testimony of Frederick C. Miller.)

shoreward. The weather during Tuesday and Wednesday was what one would consider to be generally fine.

Q. Wednesday that continued the same. What was the wind?

A. There wasn't any strong wind at any time that she was there.

Q. Under the conditions, Captain, of the weather on Wednesday night when the "Celtic Chief" came off, conditions of the sea, condition of the tide, and having observed the "Celtic Chief" as you had, with the tackle you had, and assume that the cable from the anchor to the hawser and the hawser that with the auxiliary cables to your tackle would not break under the strain with the power you could exert by means of your purchase tackles and the capstan and the men at the capstan working, in your opinion, Captain, could the "Celtic Chief" be moved off the reef from the place where [1697—864] she was, alone and with other agencies helping her?

Mr. OLSON.—I object to the question on the ground that the witness is not qualified to answer; furthermore, on the ground that it's calling for a conclusion of the witness; also, on the ground it is incompetent, irrelevant, and immaterial; furthermore, that the question does not state all the material conditions upon which the answer should be based in order to be proper testimony.

Mr. WARREN.—The conditions are not shown and the conditions are not at all taken into consideration.

(Testimony of Frederick C. Miller.)

The COURT.—I'll sustain the objection, though I'll allow you full latitude in the matter.

Q. Assuming, Captain, that the "Celtic Chief" had a freight cargo of 1600 pounds; that she was an iron sailing vessel of 789 gross tonnage; her tonnage under deck, 1652; her net tonnage, 1709; her dimensions, in length, 260.8; breadth, 39.5 feet; depth 32.3; her moulded depth between 22 feet 7 inches. After you had observed that such a vessel was ashore on the coral reef of the channel of Honolulu in a position bow-on to the shore and approximately at right angles to it, in the position under conditions of wind and weather and sea which you have observed, with the ship appearing to be aground on a coral reef and with her bow out of water above the water line as you have observed before, and assuming that a triple purchase tackle was rigged on deck of the "Celtic Chief" as you have described and that the fall of this tackle carried to the large capstan on the forward deck which you observed, and that there were sixteen men at work on such capstan, and assuming that this apparatus was attached to the seven-ton anchor which you described, by a wire cable two and a quarter-inch steel, new, and that the anchor was resting on the sea bottom about one thousand feet [1698—865] astern of the "Celtic Chief," and that this cable was attached to the tackles by a new hawser twelve inches in circumference with auxiliary cables of one and one-half inch crucible steel, and assuming that the anchor was in such a position that it would not come home when the strain was put upon it, and that this two and a quarter-inch steel cable was, would not

(Testimony of Frederick C. Miller.)

break upon the strain, under the strain, can you say that such apparatus was sufficient without other aid, to pull the "Celtic Chief" off the reef at the time she came off on Wednesday night?

Mr. OLSON.—I object to the question on the ground that it doesn't appear that the witness is qualified to answer further, or that the question assumes certain facts not shown in evidence; furthermore, that the material, all the material, facts are not included in the question necessary to be considered for a proper answer such as would be admissible in evidence; and, furthermore, upon the ground that the question is otherwise incompetent, irrelevant, and immaterial.

Mr. WARREN.—I wish also to enter the same objection to this question.

Mr. MAGOON.—Will your Honor reserve a ruling on it for the time being and we go on to something else?

The COURT.—I shall certainly reserve my ruling.

Mr. WEAVER.—Q. Have you, in your experience, had any knowledge of the relative force of pulls by a propeller?

A. Yes.

Q. And pulls of anchor on tackle?

A. Yes, sir, I have.

Q. What experience had you?

A. Well, the history of the salvage operations throughout [1699—866] the world—

Mr. OLSON.—If the Court please, he is not experienced and we object to it.

Mr. WEAVER.—Withdraw the question. What

(Testimony of Frederick C. Miller.)

have you to say about the relative power of an anchor with tackle in relation to the power of the vessel by means of the propeller?

Mr. WARREN.—I object to that. I don't believe the witness is qualified on the power of propellers.

The COURT.—Objection is sustained.

Mr. WEAVER.—Have you had any experience, Captain, of salving vessels where there was a propeller with lines used in hauling on the vessel?

A. Yes.

Q. And have you had any experience of that kind where there were vessels of seventeen hundred or eighteen hundred gross tonnage, that size?

A. Being pulled off with the propeller?

Q. Pulled off with the propeller.

A. I have never had any experience of that, such a ship being pulled off with a propeller.

Q. Have you seen it tried?

A. Yes, I've seen it tried. I've seen it tried on the "Manchuria."

Q. Have you had any experience with a vessel as small as 1700 or 1800 ton?

A. I've never had experience with a vessel as small as 1700 or 1800. I've had experience of numerous vessels being tried to be pulled off with their propellers.

Mr. STANLEY.—We object to the witness continuing on the ground it is not responsive.

The COURT.—I'll allow that question. [1700—867]

A. No, I never had experience with a vessel exactly that tonnage because I never operated two vessels of

(Testimony of Frederick C. Miller.)

exactly the same tonnage. There is no two vessels that have exactly the same tonnage.

Q. Have you had experience with vessels smaller than 1800 tons?

A. I've had experience with vessels smaller than 1800 tons and vessels larger than 1800 tons.

Q. In vessels smaller than 1800 tons what experience have you had with pulling them off with the propeller?

A. If they're very much smaller and not hard ashore you could pull them away with the propellers; it's possible.

Mr. WARREN.—I object to that, the witness has not qualified.

Mr. OLSON.—Same objection.

Mr. WEAVER.—I don't object to that answer being stricken out.

(Question read.)

A. I've had considerable.

Q. Tell what—tell instances upon which you base an opinion.

A. The British steamship "Don," the Brahma Islands.

Q. What was she?

A. Steamship of about 1200 tons dead freight capacity.

Q. Go on; where was that stranded?

A. We tried to pull her off with a propeller.

Q. Where was she stranded?

A. On the Brahma Islands.

Q. What kind of a beach? A. Coral reef.

Q. And what agencies were at work attempting to

(Testimony of Frederick C. Miller.)

pull her off, if any?

A. Steamship with about 800 horse-power.
[1701—868]

Q. Were there any other agencies working on it?

A. After we had pulled?

Q. At the time the steamer was pulling.

A. No other.

Q. What was done by that steamer?

A. Let go of her and gave her up.

Q. What did she do before she gave it up?

A. Put a line to it and pulled.

Q. With what did she pull? A. Wire hawser.

Q. What was doing the work? A. Propeller.

Q. What work was done by the propeller?

A. Turning the water.

Q. To what extent?

A. To the full horse-power of the steamer's engine.

Q. And how long did this continue, if you remember? A. During two high tides.

Q. And how was the steamer ashore, the ship?

A. The ship was ashore on a coral reef, the bottom very similar to this in the Hawaiian Islands and under conditions very similar to those of the "Celtic Chief."

Q. How was she very similar? What do you mean by that? How was she lying?

A. She was lying with her head on to the breakers, right angles with the line of breakers and ashore for her full length.

Q. And that—what was the result of this effort of the rescuing steamer?

A. She didn't budge her at all.

(Testimony of Frederick C. Miller.)

Q. Do you know whether or not she moved in any direction? A. Didn't move at all.

Q. Then what was done next?

A. Then cables was rigged up to her and anchors was placed out. [1702—869]

Q. Well, what was done? Describe the anchors.

A. They were hove taut.

Q. What kind of an anchor?

A. There were two three-ton anchors used on her.

Q. What connection was there between the anchors?

A. These two anchors were placed on her and one was back of the other, and one steel hawser laid from the anchor to the stern of the steamer.

Q. Do you know the size of the hawser used, steel hawser?

A. Yes, that was about an inch and three-quarters.

Mr. MAGOON.—Diameter?

A. Diameter. All steel wires are diameter.

Mr. WEAVER.—Then what power was used on this, what means was used to exert power on this cable? A. Donkey boiler and hoisting engine.

Q. And tell the effect of the work and what was done at that time.

A. The effect of it, Judge Weaver, was this: all the work, the first work did not affect this particular boat; then we hove in on that purchase and hove in and the ship would move and the ship would come down. In time she come, she'd come a little to that hawser.

Q. You spoke of these tackles, these purchases, what do you mean? What had you there?

(Testimony of Frederick C. Miller.)

A. We had a purchase there, blocks; what you call here the main purchase and one luff on that.

Q. And what was the result of your work?

A. The ship was floated.

Q. Have you any other experience with 1800 ton vessels? [1703—870]

A. I had an experience of a ship being pulled off with propellers on the "Celtic Chief." I saw that done.

Q. Of course, we cut out the "Celtic Chief"; that is the case in point. Any other experience that you had with a vessel of 1800 tons or less?

A. Or less?

Q. Take 1800 tons or less.

A. That's the only one that ever I tried.

Q. Now, vessels 1800 tons and over?

A. No, I've never attempted to pull anything with the ship's propeller, anything of that size or over.

Q. Have you seen it tried?

A. No, I've never seen it tried except on the "Celtic Chief" and the "Manchuria."

Q. Have you ever seen—have you seen any experiment or do you know of any instance to show the relative power of a propeller pulling by means of a steamship, of course, and the relative power used on an anchor and tackle? Have you had any such experience?

Mr. WARREN.—We object to that question on the ground the witness isn't qualified to answer.

The COURT.—I understand, Captain, that the Brahma case was one in which you were interested and one in which you worked yourself, both methods?

(Testimony of Frederick C. Miller.)

A. Yes, your Honor.

The COURT.—Now, this other question as I understand it, is your experience and observations as to the propeller working.

A. I have—

Mr. WEAVER.—I withdraw the question.

The COURT.—I'll allow the question as a preliminary question. [1704—871]

Mr. WEAVER.—Answer the question.

A. Yes, I've seen it. I've seen demonstrations of the power of a ship's propeller as against tackles.

Q. What instance can you give?

A. An instance of the American Steamship Co. on 33 E. River Street, New York, wherein Captain —— took up an ordinary hoisting engine, and donkey boiler of the size and shape used here on our docks for discharging cargo, rigged up a purchase with one six-inch line and treble blocks and pulled two steamers of 800 horse-power, stern backwards.

Q. What were the steamers doing?

A. They were pulling full speed with their propellers as fast as they could go.

Q. What did you see down at the "Manchuria" with anchors?

A. The day that I went over to the "Manchuria" I saw the "Restorer," some of the Inter-Island boats, I don't recall the number or names of them, pulling on her and they didn't budge her as far as I could observe.

Q. Do you know the size of the "Restorer"?

A. The "Manchuria"?

Q. The "Restorer," that was pulling?

(Testimony of Frederick C. Miller.)

A. Her horse-power was approximately 3,000. I'm only giving you approximately. I don't know.

Q. What did you say they were doing?

A. They were pulling.

Q. And were on her for how long?

A. I don't know how long they were pulling. I only stayed there I should say about an hour. Took some photographs and came away.

Q. Were you there when the "Manchuria" came off? A. No, sir.

Q. While you were there, what effect had this pulling on [1705—872] the boat?

A. No effect on the "Manchuria" as far as was apparent to me.

Q. Do you know the condition of the tide?

A. It was about high water. I am not quite positive as to the fact, but I think the "Elehu" was pulling on her at that time.

Mr. MAGOON.—The "Elehu"?

A. The "Elehu" was there.

Mr. OLSON.—I'd like to ask one question on the question that you spoke of when a steamer attempted to pull off this vessel by means of her propeller and they gave it up and where purchase tackles with later two anchors were laid. You said that you were there all the time?

A. I was there during the whole of the time.

Q. You saw the towing steamer attempting to pull her off? A. I did. I was on her.

Q. Did you own any of those steamers?

A. I owned the steamer, not the one that was pulling on her; I had a charter on her. I owned the

(Testimony of Frederick C. Miller.)

other steamer, myself.

Q. The one that was ashore? A. Yes.

Mr. WEAVER.—Who owned the "Concord" at the time of this grounding of the "Celtic Chief"?

A. Miller Salvage Co.

Q. Who owned the "James Makee"?

A. Miller Salvage Co.

Q. The "Elizabeth"?

A. Miller Salvage Co.

Q. Motor boat, "Mokolii"?

A. Miller Salvage Co.

Q. Lighter boat, "Kaimiloa"?

A. Pacific Oil and Transportation Co.

Q. What had you to do with her? [1706—873]

A. I chartered her.

Q. You've spoken of these anchors, tackles, and blocks, who owned them?

A. Miller Salvage Co. with the exception of that one wire that I told you that I borrowed from the "Celtic Chief," that being around the "Celtic Chief."

Q. Now, then, what can you give the value of this apparatus which you were using at that time up to the time you pulled the "Celtic Chief"?

Mr. OLSON.—It doesn't appear that the witness is qualified to answer it and I object to it on that ground.

Q. What is the value—do you know what apparatus means?

A. Yes, I know what apparatus means.

The COURT.—You might make the question a little more definite.

(Testimony of Frederick C. Miller.)

Q. Who owned *these* anchor and the cables from the anchor to the deck and hawser and the auxiliary cable from the hawser?

A. Miller Salvage Co. employed all the outfit that itself or its men used on the "Celtic Chief" with the exception of that one steel wire we borrowed from the "Celtic Chief."

Mr. WEAVER.—I'd like to have that question read.

(Question and answer read.)

The WITNESS.—Owned all the outfit that was employed, used on that "Celtic Chief."

Q. What was that apparel or apparatus worth?

A. The ships have been appraised—

Mr. OLSON.—That shows exactly that counsel's question is not clear and I submit he should make more definite what he means.

Q. Did you understand the question? What was this apparatus [1707—874] or tackle worth that you have described?

The COURT.—Captain Miller, I understand Judge Weaver is *direct* his question toward the tackles, blocks and lines and that kind of apparatus solely. Is that right? A. Solely.

Mr. WEAVER.—That's it exactly.

A. Solely, not ships.

The COURT.—Now, then, have you any special objection?

Mr. OLSON.—No.

The COURT.—Very well.

A. Aside from the ships the valuation of our anchors and wires and tackles was approximately

(Testimony of Frederick C. Miller.)

\$12,000.00. That doesn't include the ships.

Q. Now, then, you owned the "Concord"? What did you pay for her?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial.

Mr. WEAVER.—Withdraw that question. What was the value of the "Concord" on the 6th day of December, 1909?

Mr. OLSON.—Object to the question on the ground it doesn't appear that the witness is qualified to answer.

Mr. WARREN.—Same objection.

Mr. WEAVER.—Withdraw the question.

Q. Have you had any experience in buying and selling boats like the "Concord" in Honolulu?

A. None other but her just like her.

Q. Have you had any experience in buying boats anywhere? A. Yes.

Q. Have you had any experience in buying boats like the "Concord" elsewhere? A. No.

Q. Have you had any experience in buying sailing boats [1708—875] elsewhere?

A. Buying and selling elsewhere? Yes.

Q. Have you observed the prices in buying any boats like the "Concord" here and elsewhere up to 1909? A. Yes.

Q. How much experience have you had, during what period of time has your observation extended?

Mr. WARREN.—Is that simply observation of what, of the market?

Mr. WEAVER.—Of the market.

Mr. WARREN.—Object to it as incompetent, ir-

(Testimony of Frederick C. Miller.)

relevant, and immaterial.

The COURT.—Objection overruled.

A. There has not been a time in twenty years that I haven't owned boats and sold them.

Q. But, Captain, your experience in observation of buying and selling boats.

A. Over twenty years. I've owned and sold boats, bought and sold boats.

Q. Have you observed others buying and selling boats?

A. Yes, I've observed others buying and selling.

Q. Have you observed others buying and selling boats similar to the "Concord"?

A. Somewhat similar.

Q. What was the "Concord"?

A. An Eastern fisherman, built in Essex.

Q. About how long?

Mr. OLSON.—I object to that as incompetent, irrelevant, and immaterial.

The COURT.—Objection overruled.

Q. What was her length?

A. About ninety feet. About that approximately.

[1709—876]

Q. About what beam? A. About twenty.

Q. Twenty feet. About what depth?

A. About nine feet, five. About. I'm giving you approximately.

Q. During December 6, 7, and 8, 1909, what was her condition as to seaworthiness or not?

A. She was in good condition. She had just returned from a trip, Mr. Olson, Weaver, with a cargo of one hundred and twenty-five tons of prosphate.

Q. What was her tonnage?

(Testimony of Frederick C. Miller.)

A. I judge her tonnage—I'm giving you approximately—I judge her tonnage was about seventy tons, registered. I know of *carring* at times 125 tons.

Q. And what was she worth in the market in Honolulu at that time?

Mr. OLSON.—Object to the question on the ground that it doesn't appear the witness is qualified to answer.

The COURT.—Captain Miller, have you bought and sold any other boats in Honolulu in the past year?

A. Yes, your Honor; I bought the tug "Elehu," steamer "Lihue," and sold her. I purchased at that time a schooner "Melancthon."

Mr. MAGOON.—How big was she?

A. I don't remember her tonnage. She carries 1,600 tons.

Q. The tug "Elehu"?

A. I don't remember her size, and tonnage.

Q. "The "Lihue"?

A. I don't remember her size and tonnage. Sold her.

Q. Any others?

A. None other anywhere near the size of the "Concord."

Q. Any other vessels?

A. Since I've been in Honolulu? [1710—877]

Q. Yes. How about that pirate ship?

A. The schooner "Lady."

Q. What's her size?

A. She was about sixty feet. She was smaller than the "Concord."

(Testimony of Frederick C. Miller.)

Q. Any others beside her?

A. None others that I remember. No other vessels since I've been here in Honolulu, I think. Let me see. "Lady," the "Lihue," the "Melancthon," and the "Elehu."

Q. Ever have any difficulty to get away from this port with a ship?

A. Oh, I forgot. I bought and sold the bark "Alden Besse."

Q. How big was she?

A. Her tonnage was 882. I think she carried 1,400 tons.

Q. While you were here, have you observed the buying and selling and prices of vessels here?

A. There has been no boat bought and sold except what I have bought and sold.

Q. How long a time?

A. Eight years. I've been here between seven and eight years. I think eight years.

The COURT.—I hold the witness is qualified.

Mr. WEAVER.—Now, what's the value of the "Concord," December 6, 1909? A. \$3,000.00.

Q. Steamship "James Makee"; you had that?

A. Yes.

Q. What was that?

A. She was valued at \$15,000.00.

Mr. OLSON.—I move to strike on the ground that it is [1711—878] irresponsive.

Mr. WEAVER.—No objection.

Q. Describe the "James Makee."

A. She's a steamer.

Q. How big?

(Testimony of Frederick C. Miller.)

A. I don't remember her tonnage; she carries about 125 dead weight.

Q. Do you know about how long she is?

A. I don't remember her length.

Q. Do you remember her depth?

A. Approximately about 20 feet. I only give you approximate, of course.

Q. What machinery had she?

A. Compound engines. Compound service, condensation engine.

Q. How big?

A. I don't recall the size of the cylinder.

Q. What's the value of the "James Makee"?

A. \$15,000.00.

Q. That's in December 6, 1909? A. Yes.

Q. What's the—describe the launch "Elizabeth."

A. She's a launch with a new Eastern Standard Engine, gasoline engine, thirty horse-power. Eastern Standard.

Q. About how long is the "Elizabeth"?

A. About forty, thirty-eight or forty feet. Somewhere about there.

Q. And what's the value of the "Elizabeth," December 6, 7, and 8, 1909, in Honolulu?

A. The "Elizabeth's" value was \$4,000.00.

Q. And do you know the "Mokolii"?

A. Yes, sir.

Q. What kind of a boat is she? Describe it.

A. She's a gasoline, Eastern gasoline engine.

[1712—879]

Q. What power?

A. She has a hundred and twenty-five horse-power Eastern gasoline engine.

(Testimony of Frederick C. Miller.)

Q. And about what size boat is she?

A. The "Mokolii" is about, I should say, about ninety foot long and about sixteen or eighteen feet deep, approximately.

Q. And what's her value, December 6, 7, and 8, in Honolulu? A. \$8,000.00.

Q. Yes. And you knew the "Kaimiola." What's the size and value of the "Kaimiola"?

A. The "Kaimiola" is valued at \$2,000.00.

Q. What was she?

A. She was a sailing lighter, used for lightering purposes. I'd like to state, Judge Weaver, if his Honor, the Court, will permit me, that these figures that I have given you are not, are rather underestimated. They are overestimated.

Q. Are there any other, was there any other apparatus that you haven't given here?

A. Yes, we had another launch. You asked me the other day what appliances I used. I told you the "Concord" and those you've asked me about. Now, we had another launch we used beside the "Elizabeth."

Q. What was it, Captain? Is that yourself or Miller Salvage Co.? A. Miller Salvage Co.

Q. What was it? A. Small gasoline launch.

Q. What was it? Describe it.

A. Small gasoline, eight horse-power. Gasoline launch, cost me \$800.00.

Mr. OLSON.—Move to strike. It is incompetent, irrelevant, and immaterial.

A. Brand new. [1713—880]

The COURT.—The evidence will stand.

Q. I'll ask you, Captain Miller, what the value was.

(Testimony of Frederick C. Miller.)

A. Value of the——?

Q. Yes. A. \$800.00, sir.

Q. I understand that's the value as well as what was paid for it? A. Yes.

Q. How old was it? How long had it been in use?

A. Hadn't been in use two weeks.

Q. Do you know personally of the condition of the sea while you were, while the fertilizer was being taken out of the "Celtic Chief"? A. I do.

Q. What kind of a sea was there while you were working on Monday?

A. There was a long swell running in.

Q. What way?

A. Running in almost directly astern of the ship, towards the ship.

Q. And what effect—did that have any effect at all upon your operations? A. Yes.

Q. What?

A. Well, it hampered our operations and made the operation of transferring the cargo and it always tended to considerably damage our boats.

Q. What—were you there when the "Concord" was there? A. Yes.

Q. What effect, if any, had this there on the "Concord"?

A. Tore her windlass out and broke her chocks forward.

Q. What kind of an apparatus did you have there, if any? You spoke about danger—were you attached to the ship? A. We had six-inch lines. [1714—881]

Q. And was there any other apparatus about there in connection with these lines? A. Yes.

(Testimony of Frederick C. Miller.)

Q. What had you?

A. We had bales of hay and put them between the ship's side, the "Concord's" side and the "Celtic Chief's" side.

Q. You have spoken of the windlass and chocks being damaged, was there anything else done?

A. To the "Concord"?

Q. To the "Concord."

A. The windlass and chocks was all that I remember that was broken on the "Concord."

Q. Now, have you had any experience in repairing vessels? A. I've had considerable.

Q. What?

A. I've had to repair all of my own and rebuild them.

Q. How long?

A. Ever since I've been here and also the Oil Company's ships. We had charge of all the repairs to them.

Q. Did you—did you ever repair this damage to the "Concord"? A. I did.

Q. What did it cost you?

A. I would have to refer to a memoranda or refer to the books of the office. The records in our office show, I think, or should show what it cost us. With the Court's permission, Judge Weaver, I'll have to dig that up from the records in our books.

Thursday, August 24, 1911.

(Last question read.)

A. I haven't had an opportunity to go into the office since I left here yesterday and that's a matter of office records that we'll have to dig out of that

(Testimony of Frederick C. Miller.)

book [1715—882] there. We had a book here the other day that Judge Weaver brought up with the receipts.

Q. We've got to have all these facts from you.

A. These bills were paid two years ago and I wouldn't like to state that without having them verified by the facts or the office records.

Q. You'll answer that question after you get your record? A. Yes, sir.

Q. You have testified as to the repairs of the "Concord," but not the cost of the—was there any damage to those other vessels, and if so, how much did it cost?

A. Yes, there was a damage to the "James Makee." She tore out her port rail and port chock aft. The rail, the whole length of it.

Mr. OLSON.—What's that?

A. The rail aft of the port side of the "Makee" was torn out the whole length of it and her chock aft. She also carried away one of her bitts aft, one set of iron bitts and she carried away her port rail between her port bow chock.

Q. Port bow deck rail?

A. It's what we call the buffalo, where the chock is fastened through. That forward rail and after chock and bitts was renewed, replaced. The cost I can't give now. The port bow chock was and port rail, purposely as far as that is concerned. The after rail can be seen. It's a new part of the ship and we fixed it.

Q. The rail was renewed?

A. The rail was renewed and chock aft.

(Testimony of Frederick C. Miller.)

Q. What did it cost?

A. That I can't tell without reference to books likewise.

Q. Will you give us that testimony later? [1716—883] A. I will.

Q. Was any damage done to the "Elizabeth"?

A. Yes. She got a line in the scag aft and tore out the whole scagging.

Q. Explain to the Court what the scag is.

A. The scag is on the bottom of the keel, your Honor. There's an iron plate that runs aft that's bolted through the keel and the bottom of the rudder sets in that. It's something to support the heel of the rudder. We call it a scag. It's a continuation of the keel only in her instance it was iron or brass, I think iron.

Q. What did that cost?

A. I don't know. She went on the marine railway and had that fixed.

Q. The motor boat "Mokolii"?

A. The "Mokolii" had no damage whatever that I can recall.

Q. The "Kaimiola" have any damage?

A. The "Kaimiola" tore out one of her iron bitts forward. She had a pair of iron bitts forward; tore them out.

Q. What did it cost to repair her?

A. We had a spare pair of bitts and I put them on with our men. She didn't belong to me and I had to do that.

Q. Can you say the value of that work?

A. The bitts cost me \$86.00, a new pair, at the

(Testimony of Frederick C. Miller.)

Honolulu Iron Works. The labor I can't tell.

Q. You don't know?

A. We didn't keep any account of that labor putting them back. I only know the cost of the bitts.

Q. That small launch? A. Small launch?

Q. Did that have any damage? A. No, sir.

Q. During all the time you were working there, Captain, was there any danger to these boats?

[1717—884]

A. The most imminent danger to all of them.

Q. How, what kind of danger?

A. The boats lay fastened to the "Celtic Chief" and—

Q. Which boats?

A. The "Concord," "Kaimiola," and the "James Makee." There was a heavy swell running setting directly toward the breakers and we were not far from them. Our lines kept snapping and breaking. We used up one complete coil of a brand new six-inch line.

Q. What is a coil?

A. Approximately one hundred and twenty fathoms.

Q. What does it cost?

A. I don't remember the cost of the coil. I can refer to the Inter-Island books and that will tell me.

Q. Go on with your statement of the dangers.

A. The imminent danger to our boats was this, that when those lines parted the swell was setting right toward the beach, toward the breakers, and if it ever got adrift from us there was nothing that would have saved us or saved those boats from go-

(Testimony of Frederick C. Miller.)

ing in the breakers and being lost.

Q. Did the lines part? A. They did.

Q. Give us an idea how much parting there was.

A. From the time we started that work until we finished, our lines must have parted at least twenty times.

Q. What precautions did you find necessary to prevent danger under those circumstances?

A. We used the best lines we could get. We had a brand new coil of six-inch line and we used some to the "Celtic Chief" lines. We bent a boat davit on the "Celtic Chief" that was at least three inches in diameter.

Q. How did you do that?

A. Somebody made this [1718—885] line fast to that boat davit thinking it would hold.

Q. Any other instance that you can give of the force of the swell?

A. The force of the swell at that time, and it is greater or at all times than most people realize without actual experience, a ground swell setting in near shore will send a boat or ship ashore quicker than any other agency I know.

Mr. OLSON.—Move to strike the answer as not responsive to the question.

Mr. WEAVER.—I have no objection.

The COURT.—Very well.

Mr. OLSON.—The answer is then stricken?

The COURT.—There isn't—yes.

A. To show the force of the swell, the force of the swell was such that it would part a brand new six-inch line, snap it like a fiddle-string, and the boat's

(Testimony of Frederick C. Miller.)

bow would be sometimes four foot below her rail and the next time three or four feet above the rail, and as I stated yesterday, on that account we had to use bails of hay between the ships to keep them from smashing together.

Q. What time are you speaking of?

A. I'm speaking of the only time that we light-ered, Monday and Monday night.

Q. What was the difference between the lowest phase and the highest?

A. The lowest phase and the highest would be a distance of three or four feet below the level of the rail and four feet above it.

Q. What figures do you get from that?

A. I call it a four-foot swell.

Q. How do you measure a swell? [1719—886]

A. The swell is the medium between the lowest point and the highest.

Q. You don't call a swell from the highest to the lowest phase? That would not be an eight-foot swell?

A. If there was an eight-foot swell nothing would have lived there.

Q. An eight-foot swell would mean to your mind one that was sixteen feet from the highest to the lowest—

Mr. OLSON.—I object to the question on the ground it has been asked and answered.

The COURT.—The objection is overruled.

Mr. WEAVER.—Withdraw the question.

Q. Can you give more thoroughly than you have, the direction of this swell that Monday?

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object to the question on the ground it has been asked and answered over and over again.

The COURT.—I think it has been answered, Judge Weaver, very fully.

Q. I'll ask you, Captain, what the effects of that swell would be upon the vessel, the "Celtic Chief," on that Monday, if there were no agencies out acting upon her to restrain her motion.

Mr. OLSON.—Object to the question on the ground it has been asked and answered. I'll withdraw the objection. Let him state his answer.

The COURT.—I'll allow the question.

Mr. OLSON.—Will your Honor permit to ask a question?

Mr. WEAVER.—I object to that.

The COURT.—In my discretion I'll allow the question.

Mr. OLSON.—Captain Miller, didn't you remark a few moments ago in the course of my argument that my statement that you testified yesterday that the only tendency of that swell was to drive the "Celtic Chief" directly [1720—887] ahead farther on to the beach? A. I did.

Q. Didn't that—didn't you remark that that was correct?

A. That was correct. That is the only way that ship went.

Q. Didn't you say that it was correct that you testified yesterday that that was the only tendency of the swell?

A. Mr. Olson, so that I set this thing right, so that

(Testimony of Frederick C. Miller.)

your Honor will understand what I mean. What I testified to yesterday I'll testify to-day and next year and next year. The only tendency of that ship and what actually occurred was that she went directly toward the beach. That swell set her directly toward the beach. I testified to that yesterday or day before and I testified to-day. What it would have been without the agency of the Inter-Island boats would be another proposition, your Honor, and I may state for the *same* of information no ship ever remains bow to the beach when she strikes, unless her stern is held by an outside agency. She's bound to swing one way or the other.

Mr. WEAVER.—Now then, did you know, do you know what kind of a ship that "Celtic Chief" was?

A. An iron, four-masted sailing ship.

Q. What kind of a bottom has it?

A. Single bottom.

Q. In the position she was on Monday, Tuesday, and Wednesday, was there any danger to that ship with that kind of a bottom?

A. There was an imminent danger. [1721—888]

Q. On that coral on that shore? A. There was.

Q. What was the danger under those conditions?

A. The danger to that ship was this: that without extraneous help she would have broken a hole through her single bottom, pounded a hole through and not a pound of that cargo would have been salvaged. The cargo is of such a nature that it dissolves rapidly, even more so than sugar, in water.

Q. The fertilizer?

A. The nitrate. The fertilizer elements.

(Testimony of Frederick C. Miller.)

Q. On Wednesday, Captain, what, in your opinion, would have been the tendency of the "Celtic Chief," if there had been no agencies whatever holding her?

A. By Wednesday night she would have been overset.

Q. If there had been no objects holding on Wednesday? A. Yes.

Q. Why?

A. She would have had a hole through her. She couldn't have withstood the bumping on that beach. She lay fore and aft and her keel lay at right angles to the beach and up to that time the boats holding her she was bumping on that keel. When the ship overset her bilge—

Q. What is the bilge?

A. The bottom of the ship on either side.

Q. On what?

A. The lowest part of her bottom.

Q. This is referring to five o'clock or the time you got the tackles on? A. Yes, the condition then.

Q. Did this refer to five o'clock of the day you got your tackles taut? [1722—889]

Mr. OLSON.—Object to the question the ground it is leading.

The COURT.—Sustained.

Q. What time does this refer to, Captain?

A. It refers to all the time she was there from the moment she strikes the beach until she leaves it, the same probabilities are likely to occur.

Q. Did you observe the tackle on the forecastle, the capstan, I mean? A. Yes, sir.

Q. Describe it.

(Testimony of Frederick C. Miller.)

A. The capstan was a large sized, double-acting capstan. I mean by double acting it had differential gears in contradistinction to a single action capstan.

Q. Can you say what the effect of power when applied to a capstan of double acting or differential to a single action?

A. You increase the power from two to three times according to the width of those differential gears.

Q. Do you know anything about what kind of differential gear this was?

A. I do know it was a double-acting capstan in which you get double the power of it; from a single purchase to a double purchase.

Q. What was the size of this capstan?

A. As I near as I can remember, the capstan was about three-foot diameter across the head and about eighteen inches diameter through the bow and stood about, stood up to my breast, say about three foot, six. I know where it came.

Q. And how long were the handle bars or the bars of the bars of this capstan?

A. I didn't measure them with a tape, but there were not long bars and I should say at least eight foot. [1723—890]

Q. When inserted in the capstan how long was the extreme end?

A. About seven foot, four to seven—eight, because the insertion at the extremity of those bars are about eight inches.

Q. Where is the fall taken on the capstan?

(Testimony of Frederick C. Miller.)

A. Around the bottom.

Q. And how is the power used, worked on the fall?

A. The men insert the capstan bars in this head of the capstan and walk around the forecastle deck.

Q. What effect, if any, had that on the fall?

A. That tightens the fall.

Q. Where was the fall put?

A. The fall is put around the bottom and one man holds the slack.

Q. That winds it up? A. Winds them.

Q. Differential or double acting. If one pound be exerted on direct acting, what effect would one pound be exerted on a double action?

Mr. OLSON.—Object to the question; unintelligible.

Mr. WEAVER.—Withdraw the question.

Q. Can you say from any, from your own knowledge or from reference to scientific works, what the force exerted by an ordinary man is upon the capstan rod?

Mr. OLSON.—I object to the question on the ground no foundation is laid and furthermore on the ground that the witness is not qualified to answer.

The COURT.—I am going to allow the question. If you want to cross-examine, Mr. Olson, you may.

A. I couldn't state it in pounds without consulting a good authority on it. I do know—

Q. Will you refer to any works you have and tell us [1724—891] what exertion a man makes upon a capstan bar and under what conditions?

A. Trautwine gives it as sixteen pounds on a single purchase.

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object to counsel here instructing what the book says.

Q. What's it amount to—can you say?

A. I wouldn't like to say without referring to this book. Trautwine says sixteen pounds.

Q. Explain what Trautwine means.

Mr. OLSON.—I submit the witness has fully answered the question and that is that the man power is sixteen pounds.

Q. Under what condition is that—

Mr. OLSON.—According to Trautwine—

The COURT.—It seems to me we could bring some engineer who can testify and refer to these books.

Mr. WEAVER.—Can you tell us what that means, the sixteen pounds?

A. I can tell what this book is intended to convey, but I'd like to have this thing clear. I don't want to be placed in the position as being a damn fool with these books, but I can tell you that it makes all the difference in the world what kind of capstan. I can break a twelve-inch line—

Mr. OLSON.—I move to strike on the ground it is irresponsive.

The COURT.—It may be stricken. It should be stricken.

Q. Captain, you were speaking of sixteen pounds exerted, can you say—

A. I can say the conditions here spoken of here is a man working ten hours a day. Now, our men were working [1725—892] as hard as they could twenty or thirty minutes at a time. It was not sixteen pounds they was getting but sixty pounds.

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I object and move to strike on the ground the witness isn't qualified to answer.

The COURT.—The last of the answer may be stricken.

Q. Can you say, Captain, from your experience or from your knowledge of scientific works on such work, what a man may exert, what force a man may exert upon the bars of a capstan when working a short period? A. Yes.

Q. Do you know?

A. From my own experience as—

Mr. OLSON.—Just a moment. I object to the question on the ground that it doesn't appear that the witness is qualified to answer from his own experience.

The COURT.—Am I right in assuming from your evidence so far that you can't state that in pounds?

A. Your Honor is perfectly correct. The pressure that a man can exert depends upon so many different factors. He may be a strong man and push two hundred pounds; some one hundred, maybe push five hundred and I may push an inch.

Mr. OLSON.—That's as far as you know.

A. That's as far as I know. How much a man can push in pounds I couldn't state and no scientific work either, Mr. Olson.

Mr. WEAVER.—Could a man make a greater exertion for a short period of time than a man—

Mr. OLSON.—Object to the question on the ground it is leading. And I can say further that it is immaterial. [1726—893]

Mr. WEAVER.—Withdraw the question. Can

(Testimony of Frederick C. Miller.)

you state whether or not—

The COURT.—I will state, Judge Weaver, that I take judicial notice of some things.

Q. Captain, you stated there were three men on a bar on this capstan, have you not? A. I have.

Mr. OLSON.—I object to the question on the ground it assumes something the witness has not testified to in this case.

Q. How many men were there on these bars?

A. Three men.

Q. And how many bars, Captain?

A. There were eight bars to that capstan.

Q. Now, where would a man stand with regard to the bar?

A. When I said there were three men, Judge Weaver, I want to qualify it. There were three men most of the time. The men, as I have stated before, was relieving each other. The men were as close to the outer end of the bar as they could get because the nearer the out end, as you can understand, the greater the purchase they get.

Q. Can you say how far from the center of the capstan the nearest part of the hand of the outside man would be? A. About seven foot, six.

Q. Where would his hold, was his hold with regard to the outer end of the bar, about what part of the bar?

A. I couldn't measure exactly, but a man stands about on the bar like that.

Q. How close to the end?

A. That's about ten inches. That is, his hands is about ten inches apart. [1727—894]

(Testimony of Frederick C. Miller.)

Q. Ten inches from the end?

A. I'm giving you approximate figures. Ten inches apart and he'd be as close to the outer end as he could on that bar, say from two to three inches from the end of the bar.

Q. The next man to him would have his hand how close to the center of the capstan?

A. About fourteen inches.

Q. Center of the capstan?

A. Oh, I don't know how far from the center of the capstan.

Q. How far from the—

A. He was fourteen inches from the outer end. You subtract that from seven foot six, and you've got it.

Q. And how far would that man's hand be from his outside hand?

Mr. OLSON.—Object to the question on the ground it is unintelligible.

The COURT.—Objection sustained.

Q. How about the third man? From the outer end of the bar, the third man?

A. About thirty-two or thirty-three inches from the outer end of the bar.

Q. Is that his outside hand or what hand is that?

A. The inner man. The man that is the nearest the capstan would be approximately about thirty-three or thirty-four inches. I can't tell you exactly.

Q. What would be? A. His hand.

Q. Which hand; outside hand or inside hand, Captain? A. His inside hand.

Mr. WEAVER.—We close the testimony of Cap-

(Testimony of Frederick C. Miller.)

tain Miller with the exception of this value of the repairs assumed by the boats; the total statement from his books of [1728—895] the repairs.

Mr. MAGOON.—I'd like to reserve the right to put that on later. With that exception we wish to close.

The COURT.—Very well.

Cross-examination on Behalf of Libelee.

Mr. OLSON.—Q. Captain Miller, as I understand it then, these three men on each bar would occupy an average of eleven inches each along the end of the bar? A. Mr. Olson—

Q. Is that right? A. As near as I can judge.

Q. And they were standing right alongside of each other?

A. Standing as close as they could stand.

Q. Pretty small men, weren't they? Were they?

A. They weren't strung out lengthwise, they stood horizontal.

Q. Each one would occupy about eleven inches each. I'll show you, Captain Miller, eleven inches on this ruler. Do you mean to say each one of these men would occupy that space?

A. I would say they could.

Q. Did they?

A. From the best of my recollection I say they could.

Q. Did they?

A. I don't know just how they stood. I've seen the capstan hove up. They stood like that, forty inches.

Q. And this was from your actual observation?

A. From actually seeing them.

Q. On the "Celtic Chief"?

(Testimony of Frederick C. Miller.)

A. On the "Celtic Chief."

Q. And each one took up eleven inches? [1729—
896] A. They could do it.

Q. Did they?

A. I don't know of a certainty.

Q. Did you observe?

A. They might vary three or four inches.

Q. Did they take up eleven?

A. I say they could.

Q. Did they? A. I don't know for certain.

Q. In other words, you don't know?

A. I won't swear that they took up eleven inches.
It might have been nine inches, it might be twelve.

Q. Do you mean to say that they could occupy only
nine inches? A. I do say they could.

Q. They could stand in nine inches? Do you know
the ordinary breadth of the shoulders of an ordinary
man? A. About that. (Indicating.)

Q. About two feet? A. Yes.

Q. And you mean to say that these three men could
stand in that space?

A. Yes, Mr. Olson, I do. Did you ever see pris-
oners in a lockstep?

Q. And they did? A. Possibly they did.

Q. You don't know that they did?

A. I'm not prepared to say that they did. Pos-
sibly they did.

Q. Now, then, Captain Miller, as I understand you,
this testimony that you have given as to the amount
of space that was taken along those bars, is not what
they did in fact, but what they could do?

(Testimony of Frederick C. Miller.)

A. To the best of my knowledge and belief, Mr. Olson, it *was they* actually occupied.

Q. What do you base that knowledge and belief on?
[1730—897] A. From actually seeing them do it.

Q. You saw them when they stood at the capstan, eleven inches apart?

A. I say, here's where they had their hands.

Q. You say that they were eleven inches apart?

A. That's what I saw to the best of my knowledge and belief.

Q. And you saw what you now testify, that these men only occupied eleven inches each?

A. The best I judge would be ten inches apart and there would be two inches between one man's hands, the inside man's hands.

Q. You said, did you not, that the outer hand of the outside man would be two or three inches from the outer end of the bar?

A. About two or three inches from the outer end of the bar.

Q. And ten inches for his hands? A. Yes.

Q. That makes twelve or thirteen inches?

A. Yes.

Q. Then two inches between the inner hand of the outside man and the outer hand of the inside man?

A. Yes.

Q. That would make twelve inches more?

A. Yes.

Q. Making twenty-four? A. Yes.

Q. Then there would be two inches between the hands of the two men? A. Yes.

Q. Then ten inches between the hands of the third

(Testimony of Frederick C. Miller.)

man? A. Yes. [1731—898]

Q. Making in all thirty-six inches or three feet?

A. Yes.

Q. Now, then, Captain Miller, where would their backs be? Alongside of each other?

A. Their backs? One back would be lapping over the other.

Q. They would be shoulder to shoulder?

A. No, they would not.

Q. They would be inside of the inside shoulder a little way? That's the way they stood, is that right?

A. I give—

Q. Did they stand that way as they worked around the capstan? A. As near as they could stand.

Q. Shoulder behind shoulder?

A. Sometimes one shoulder lapping inside the other man's.

Q. I'm asking you what you observed there?

A. That's what I observed.

Q. All of them?

A. All the time that I observed them.

Q. All the time you observed them that's the way they were working?

A. All the time I observed them they worked close out at the end of the bar.

Q. Did they work side by side or with shoulder behind shoulder?

A. One shoulder lapping a little behind.

Q. You observed that's the way they did it?

A. I didn't say they every one did it.

Q. I'm asking for what you observed.

A. That's what I observed.

(Testimony of Frederick C. Miller.)

Q. So you still maintain that according to your observation [1732—899] those men did not occupy more than about eleven each on those bars?

A. I still maintain that they didn't occupy more than the ten or eleven inches of their hands and the inch or two behind their hands.

Q. How often would you see them in an hour?

A. I suppose I saw them, Mr. Olson, if I saw them once I must have seen them twenty times.

Q. They were always working like that?

Mr. MAGOON.—Now, I object. The question has been asked and answered.

The COURT.—The question is allowed.

A. They weren't all of the time working like that because sometimes they were walking slow and sometimes there wasn't as much power required. Sometimes there were not the full twenty-four men on the capstan and sometimes we didn't use the capstan at all; we use the steam winch.

Q. Wednesday night?

A. Yes, Wednesday night.

Q. How often on Wednesday night did you use the steam winch?

A. I saw it taken in once and put off. We put it on the steam winch to save our men, because I paid the ship's man out of my own pocket to allow me to do it.

Q. Wednesday night? A. Wednesday night.

Q. When Wednesday night?

A. I should say about seven or eight o'clock.

Q. How long was that winch being used in that way?

(Testimony of Frederick C. Miller.)

A. I should say we used it approximately half an hour or more, then the steam went down or something occurred and we had to take out line off. [1733—900]

Q. Why didn't you state on direct examination when you were asked how those men were working as you have on cross-examination that they were not working all the time?

A. Probably because I wasn't asked.

Q. Weren't you asked to state how they were working and how much space they took up?

A. I was asked now how much space and I told you, and if my counsel had asked me if they had used the steam winch I'd have told him.

Q. I understand you now to say that they were not occupied while they were working the steam winch, is that correct? A. No.

Q. On direct examination you did not qualify your testimony in stating they occupied this small space. You didn't answer that on direct? A. No.

Q. In other words, you gave an answer that was not correct?

A. The record shows the answer. I don't remember the answer.

Q. In other words, you testified when you were asked how much they worked—

A. I testified all the time.

Q. You testified first they were working all the time?

A. Most assuredly. I told them just exactly what occurred as I saw it.

(Testimony of Frederick C. Miller.)

Q. You didn't tell what you saw when they—

A. I didn't think it was necessary to tell them we used the steam winch.

Q. I'm not asking you about the steam winch. I'm asking you whether they were not working so hard and [1734—901] you did not testify—you didn't say on direct that sometimes the men, while they were working, were not working quite so hard and were using more space? A. No, I did not.

Mr. MAGOON.—I object to it because the record shows—

The COURT.—Objection overruled.

Q. I want to ask you, Captain Miller, if that's the way you've been testifying?

A. Yes, just exactly. Right straight along I've been testifying to the truth.

Q. Just that way about everything?

A. Yes, sir, just that way; just what actually happened.

Q. That's all I want. Sometimes they worked as many as twenty-four men?

A. Sometimes there was.

Q. Sometimes less than twenty-four?

A. When the men changed they didn't change simultaneously, and sometimes possibly there was only sixteen men.

Q. That happened more than once?

A. I don't know how many times it happened.

Q. It happened more than once?

A. It might have been more; yes.

Q. You know of times when there were only sixteen men of those bars? A. I don't.

(Testimony of Frederick C. Miller.)

Q. Do you know of times coming under observation when there might have been as few as sixteen?

A. I think it quite probable.

Q. As you observed it?

A. I didn't count them. When the men was relieved whether the other fellow come there quick enough to relieve him—

Q. I'm asking you as far as you observed there were times when there were as few as sixteen men working on [1735—902] the capstan bars.

A. Mr. Olson, I've answered that as truthfully and as clearly as I can in this way, that I think it was highly probable.

Q. I'm asking you if that is according to your observation and best judgment?

A. That's my observation and best judgment, that there may have been times when there was only sixteen men on those bars.

Q. That's what I asked you a few minutes ago and it's only now that you've answered that question. You observed the position of the "Celtic Chief" pretty well, didn't you, out there as she lay on the reef there Monday, Tuesday, and Wednesday?

A. Yes, I did.

Q. Wednesday, as well as Tuesday? A. Yes.

Q. She was on the reef her whole length on Wednesday?

A. To my best judgment and belief it was the length, the whole length.

Q. How was she on Tuesday?

A. I didn't observe on Tuesday.

Q. But you observed her on Monday? A. I did.

(Testimony of Frederick C. Miller.)

Q. How far was she on the reef then?

A. Monday morning she wasn't as far on the reef as Wednesday.

Q. I'm asking you how far she was on the reef on Monday. A. I can't say.

Q. You don't know? A. I don't know.

Q. Because you didn't take any observation of it?

A. I took some light to see. [1736—903]

Q. Then how far was she on the reef?

A. Well, I couldn't tell whether she was on her full length on Monday or not.

Q. What did the soundings show?

A. The sounding showed that she was.

Q. On Monday? A. On Monday.

Q. Why did you say now you didn't know?

A. The soundings showed that she might have been, but I don't know.

Q. You took those soundings? A. I did.

Q. Do you know whether or not she was resting on the coral reef at the stern?

A. She was by her draft.

Q. Was she according to the soundings?

A. I don't think she was. Her draft, so that I may be clear to you, the draft that the captain gave me and the soundings showed me that she was on astern, but her stern was bumping.

Q. You know that that was on Monday?

A. I don't know it was so.

Q. You believed it was so? A. I believe so.

Q. And she kept going farther on the reef on Monday? A. Yes.

Q. How much farther was she on the reef by Mon-

(Testimony of Frederick C. Miller.)

day night than Monday morning?

A. I wouldn't say Monday night, but I rather say half her length.

Q. And these soundings that you took were Monday morning?

A. I sounded her Monday morning.

Q. So by the time Monday night had arrived she must [1737—904] have gone a hundred feet?

A. Approximately that.

Q. Do you think she worked a bed for herself?

A. There was no bed worked in that reef.

Q. Did she raise herself out of the water going further on the reef? A. She did.

Q. How much farther out of the water?

A. Sometimes her load line mark would be three foot out of the water and sometimes it would be eight inches.

Q. It would be at least eight inches and it might be two feet? A. I would judge that.

Q. Why did you mention two feet?

A. I mentioned two feet because it may have been two feet.

Q. Not because you knew it was two feet?

A. No, I did not know.

Q. You don't know how much it was?

A. No man living can tell you or me or anybody else how much.

Q. And if you state it was two feet out of the water you are saying—

A. I don't think I have made that statement.

The COURT.—Captain Miller, what was it you gave—eight inches?

(Testimony of Frederick C. Miller.)

A. Eight inches to two foot. You can only guess that.

Q. Now, then, Captain, will you tell us what those soundings were?

A. No, I can't recall them exactly, sufficiently. I sounded around carefully on both sides myself with the line.

Q. Stern and bow also?

A. I started on the starboard and went around on her starboard side, starboard, stern and, rather to the port side, until I got to the [1738—905] point from which I started.

Q. Was she lying pretty well on an even keel or was she farther out of the water at her bow than at her stern?

A. To the best of my judgment she was further out of the water at her bow.

Q. How much?

A. This I'm telling you from observation. It may have been from eight inches to two feet.

Q. You think it was from eight inches to two feet; that the depth of the water was from two feet to eight inches less down at her bow?

A. I mean that her load line mark—

Q. I'm not asking about her load line mark. I'm asking what your soundings show.

A. That shows how much she's at the load line mark.

Mr. OLSON.—Now, if the Court please, I withdraw my question.

Now, Captain Miller, confining yourself to what the depth that your soundings showed around the "Cel-

(Testimony of Frederick C. Miller.)

tic Chief," you say the depth of the water at the bow as compared with the depth of the water at the stern.

A. Well, there was more. There was less water at the bow than at the stern.

Q. How much less water at the bow than at the stern?

A. I'm telling you now, Mr. Olson, that I didn't put down those soundings, but to the best of my judgment about two feet less at the bow.

Q. That was on Monday morning?

A. After I got there Monday afternoon.

Q. What time?

A. I can't tell you what time it is.

Q. Why did you say eight inches a few moments ago if [1739—906] you know it was two feet?

A. I said her low-water mark showed from eight inches to two foot and I also stated, Mr. Olson, that no man could tell you how much that line was out on account of the swell running.

Q. Now, then, if there is testimony in this record, Captain, that shows that on Monday morning, according to soundings the depth of the water was practically the same from stem to stern, from bow to stern, then you would say that those soundings were not taken correctly?

A. I wouldn't care for all the testimony or anything. I'll tell you what I saw and what I know and anything else.

Q. If there is testimony of that, is that testimony incorrect?

A. It's incorrect as far as my observation went.

Q. Captain Miller, you were Superintendent of the

(Testimony of Frederick C. Miller.)

Miller Salvage Company, during the time the "Celtic Chief" was on the reef out here? A. I was.

Q. And during all the time that the Miller Salvage Co. was engaged in attempting to assist her?

A. I was.

Q. You were also the chief stockholder of the Miller Salvage Company? A. I was.

Q. What proportion of the stock did you hold at that time?

A. All right. I'm giving you approximately. I think about sixty per cent.

Q. Isn't it a fact that there are 250 shares of the Miller Salvage Co. as she was incorporated and as that company existed at the time of these salvage operations?

A. I can't tell you that. [1740—907]

Q. Don't you know?

A. The capital stock was twenty-five thousand and it was doubled to fifty thousand, and whether it was doubled after that I don't know.

Q. Before the capital was doubled, isn't it the fact that you owned one hundred and forty-eight out of the two hundred and fifty?

A. Both before and after it was doubled I held the controlling interest in it, if that's satisfactory. I don't know just the number of shares.

Q. How much of the capital stock of the Miller Salvage Company do you now own?

Mr. MAGOON.—I object to it as immaterial, your Honor.

The COURT.—Objection overruled.

A. I own the controlling interest in it now.

(Testimony of Frederick C. Miller.)

Q. I'm asking you how much?

A. I don't know. I tell you frankly I don't know.

Q. Can you testify later on? A. Yes.

Q. I'll ask you after the next recess to come back with the information that I desire on that, both the number of shares you owned at the time of the salvage operations and the shares you now own and also the total number of shares at the time of the salvage operations and the total number of shares now.

Mr. MAGOON.—Object to that question, it is incompetent, irrelevant and immaterial.

The COURT.—Objection overruled.

Q. Now, Captain, you, as superintendent, had all the powers of a general manager, did you not, without condition? A. Yes.

Q. You were in complete control of all those salvage operations? A. Yes.

Q. You personally supervised the whole work?

A. Yes.

Q. Of the Miller Salvage Company out there on the "Celtic [1741—908] Chief"? A. Yes.

Q. And in connection with her? A. Yes.

Q. Nobody else had anything to do with it so far as the primary and highest supervision was concerned? A. Quite so.

Q. You were out there practically the whole time too, were you not? A. Yes.

Q. Personally supervising?

A. Personally supervising.

Q. Personally giving the orders?

A. Personally giving the orders.

Q. And personally directing the work that was

(Testimony of Frederick C. Miller.)

done by the Miller Salvage Company? A. Yes.

Q. You were authorized, were you not, to act as the manager and superintendent of this company and of these operations of your company? A. Yes.

Mr. MAGOON.—I object to that as a conclusion.

The COURT.—Objection overruled.

Q. You were? A. Yes.

Q. Now, Captain, I want to ask you about the "James Makee," which was one of the vessels that was used by the Miller Salvage Company in connection with the "Celtic Chief" salvage. You have testified that the "James Makee's" value at that time was \$15,000.00? A. I have.

Q. Will you state whether or not you had immediately prior to that time expended anything in overhauling or repairing the "James Makee"?

A. I have, I did.

Q. How long before was it that you did this?

A. I spent altogether about—

Q. I'm not asking you about that, I'm asking you how long before?

A. I can't remember, Mr. Olson, how long.

Q. A year or two years?

A. Oh, less than that. Less [1742—909] than that. We paid Lyle \$2,250.00.

Q. How much?

A. We paid Lyle a bill, if I remember right, \$2,250.00, about three or four months—I'm giving you approximately now—three or four months before that.

Q. Any others?

A. Yes; I'm speaking of the large ones.

(Testimony of Frederick C. Miller.)

Q. Yes, the large ones.

A. I put in new winches into her, \$4,500.00.

Q. When did you do that?

A. I think that was about a year or two years possibly, before these operations.

Q. About two years before?

A. About that. I'm giving you approximate figures.

Q. About two years before? A. Yes.

Q. Do you remember when you purchased this "James Makee"? A. I do.

Q. When?

A. I don't remember when I purchased her; I purchased her.

Q. You purchased her from the Inter-Island Steam Navigation Company, did you not?

A. Yes.

Q. About three years before?

A. I don't remember the date.

Q. Can't you tell at all?

A. I can tell you just when by reference to another matter. If you can tell me when the "Manchuria" went ashore I can tell you when I purchased the "James Makee." After she was afloat and in the harbor here I purchased the "Makee."

Q. That was within a month or two when she came off the reef?

A. Within a month or two after she came off the reef I purchased the "Makee."

Mr. OLSON.—If it's the fact, Captain Miller, that the "Manchuria" was floated on September 16, 1906, then it must have been before the end of 1906 that

(Testimony of Frederick C. Miller.)

you purchased the "James Makee" from the Inter-Island? [1743—910] A. That would be a fact.

Mr. OLSON.—Now, I'll ask counsel to admit that it was December, 1906.

Mr. MAGOON.—We'll admit it.

Q. Now, I'll ask you how long after that it was that you expended this \$4,500.00 for winches on the "James Makee"? A. Approximately a year.

Q. Not longer than a year?

A. It may have been longer.

Q. About the end of 1907?

Mr. MAGOON.—Now, I object.

A. About that.

Q. Was it more than a year after?

A. It might have been, but I wouldn't say so.

Q. Can you produce any records from your company showing when it was that you purchased these winches? A. I don't think I can.

Q. The Miller Salvage Company made no record of the amount that it paid for the winches?

A. No.

Q. The Miller Salvage Company purchased those winches?

A. No, Captain Miller purchased it. I purchased it personally.

Q. Did you own the "James Makee" at that time?

A. I did.

Q. When was the Miller Salvage Company organized?

A. That I can't tell without looking it up. I purchased the "James Makee" about the date that you name in my own name. I purchased that winch and

(Testimony of Frederick C. Miller.)

put it into her. I purchased the hawse-pipes and put into her.

Q. These winches that you purchased you purchased personally? A. I did.

Q. And you have nothing in your books to show how much you paid? A. No.

Q. You have absolutely no record that you paid \$4,500.00? From whom did you purchase it? [1744—911] A. I think it's from Morgan.

Q. Which Morgan? A. The auctioneer.

Q. In Honolulu? A. In Honolulu.

Q. And you kept no personal account?

A. Not at that time; neither the ship nor the winch or anything else.

Q. Can you remember whether or not it was before the end of 1907 that you purchased this winch and installed it in the "James Makee"?

A. I don't think it was before.

Q. You think it was after? A. I think so.

Q. Can you verify that?

A. No, I can't verify that.

Q. Had you expended any other sums on the "James Makee" before the end of 1907?

A. Yes.

Q. How much?

A. I'd put a new bow into her and I had the Honolulu Iron Works make me two hawse-pipes at considerable expense. I don't remember what their bills were now to fit this winch.

Q. Was this a part of the \$4,500.00?

A. That was part of it. Installing the winch included the hawse-pipes.

(Testimony of Frederick C. Miller.)

Q. Anything else, did it include?

Q. Nothing except the amounts putting it in.

Q. How much did that amount to?

A. I don't know.

Q. Can you verify that?

A. Can't verify it.

Q. How long did it take?

A. It took us about a month.

Q. How many men?

A. Four men besides the engineer's department.

Q. How many people in the engineer's department?
A. Three in the engineer's.

Q. Were they laborers or expert?

A. The engineer is considered an expert.

Q. How much was paid the engineer? [1745—
912] A. Engineer, \$150.00 a month.

Q. Three of them? A. No.

Q. One?

A. Only one engineer and in his department three men.

Q. That would be how many dollars for the boat?
\$150.00— A. \$150.00 for the engineer.

Q. How much for the labor?

A. We paid one man \$75.00 a month; three men, I think, we paid \$2.00 a day.

Q. That would be \$180.00 for three men and \$75.00 for one man?
A. Yes.

Q. What other labor besides this?

A. I don't recall any other now.

Q. You think that was all expended on the installation of these winches?
A. I think that's all.

Q. Do you mean to tell the Court that during that

(Testimony of Frederick C. Miller.)

time you kept no personal accounts at all?

A. I just mean to tell the Court that.

Q. Did you pay that by cheque?

A. Yes, sir, I may have paid it by cheque.

Q. Who are your bankers? A. Bishop & Co.

Q. And if you paid by cheque you paid through Bishop & Company? A. Possibly.

Q. Will you verify that during the hour?

A. I've got to go back for a long time and look up my cheque books.

Q. Bishop & Company's books show that?

A. I think so.

Q. Will you verify that?

A. I am perfectly willing to tell you everything about it as far as I know, but I am not coming here and tell you something under oath that occurred six years ago.

Q. Will you ascertain during the noon hour whether you paid [1746—913] for that by cheque on Bishop & Company?

A. During the noon hour I want to get my lunch and I've already promised to get you the records of the Miller Salvage Company's books, and if you ask me to get you this now it will take some time.

Q. You have two hours. Are you willing to do so?

A. There's nothing I want to conceal.

Q. You'll try to do it?

A. Which record do you want?

Q. Both. A. I won't promise.

Q. You'll try, will you?

A. I'll try to; I've got nothing to conceal in this thing.

Recess.

(Testimony of Frederick C. Miller.)

Q. Captain Miller, have you obtained the figures that I asked for in regard to the capital stock of the company and the stock owned by you at the time of the "Celtic Chief" operations and also at the present time? A. Yes.

Q. Will you state what was the total number of shares of stock of the company during the salvage operations on the "Celtic Chief"?

A. The total number of shares I should think then was two hundred and fifty. I'm not certain about the date that the Miller Salvage Company doubled its capital stock from twenty-five to fifty thousand.

Q. You had the same number of shares?

A. I have.

Q. Before the increase of the capital stock of two hundred and fifty shares? A. Yes.

Q. Par value one hundred dollars? A. Yes.

Q. How many of those shares were held by you?

A. I hold in my own name, one hundred and ten and owned twenty-six. [1747—914]

Q. You had disposed of ten or twelve shares before that time, hadn't you? A. Yes.

Q. Didn't you own one hundred and forty-eight of the shares originally?

A. I owned, I think it was one hundred and forty-eight originally. I'm sure I gave my sister five and I gave my son in-law a couple of shares.

Q. How many shares are there now?

A. There are five hundred shares now.

Q. Par value a hundred dollars each? A. Yes.

Q. How many shares of the company are owned by you?

(Testimony of Frederick C. Miller.)

A. There are in my name, two hundred and eighteen, and of Mrs. Miller one hundred and twenty-two.

Q. That's your wife? A. Yes.

Q. And your sister?

A. Five shares standing in her name.

Q. And your son in law?

A. My son in law and his wife, four shares.

Q. And you have absolutely no interest at all in the balance of the shares of the company?

A. The company itself owns thirty-seven shares and twelve shares of the Miller Salvage Company's stock that are attached for a debt owing the company.

Q. The company has a lien?

A. The company has a lien and I being the largest stockholder am interested in it.

Q. Any others?

A. That I have an interest in?

Q. Yes. A. None whatever.

Q. All the rest of the shares of the company are owned by other third parties in whom you are not interested? A. In whom I am not interested.

Q. The company itself has no treasury stock?

A. None except those forty-nine.

Q. Who owns the balance?

A. The Standard Oil Company [1748—915] owns fifty and Mr. ——— owns nine; Henderson, the bookkeeper, holds two; Mr. Cooper holds forty; Bishop & Co. holds one as trustee; Mrs. ———, my sister, five shares. That's all.

Q. So the fact of the matter is, is it not, Captain Miller, that you and your wife own practically four-

(Testimony of Frederick C. Miller.)

fifths of all of the stock of the Miller Salvage Company?

Mr. MAGOON.—I object to that because it's conclusion.

Mr. OLSON.— I withdraw my question. Do you hold your wife's proxy for the shares held by her?

Mr. MAGOON.—Object.

Mr. OLSON.—Withdraw the question.

Q. Did you look up whether or not you paid for that anchor by cheque on Bishop & Company? I said anchor; I meant winch. Did you look up whether or not you paid for that winch that you put in the "James Makee" by cheque on Bishop & Company?

A. I telephoned to our former bookkeeper who had charge of our books and couldn't get him. I've never kept the books, know nothing of them. I only know that they tell me what the book value of the "James Makee" was.

Q. I'm not asking—

A. If you'll give me time we'll give you the cost of the "James Makee" from our books.

Q. That isn't what I asked you for. I asked you to ascertain whether or not you paid for the winches that you purchased by cheque?

A. That I don't know whether or not it was.

Q. Who was your bookkeeper at that time?

A. Henderson was my bookkeeper.

Q. And who kept the books?

A. He kept the books of the Miller Salvage Company.

Q. Both before incorporation and after?

(Testimony of Frederick C. Miller.)

A. No, before incorporation there was no books of the [1749—916] Miller Salvage Company kept.

Q. Now, then, would Mr. Henderson know what was paid for the windlass that was put in the “James Makee”?

A. What I told him.

Q. What you told him?

A. What I told him.

Q. So that you would have to learn from Mr. Henderson to ascertain what the windlass cost?

A. Exactly.

Q. When did Mr. Henderson begin to keep the accounts?

A. Mr. Henderson was that, if I remember right, at the time I purchased the “Makee” and up to the time I resigned from the Oil Company.

Q. And kept your books?

A. He kept the Miller Salvage books.

Q. The Miller Salvage Company was in operation all that time?

A. It was, yes.

Q. I asked you a question—

A. If you’ll permit me to answer it my own way you’ll get the same thing. The Miller Salvage Company was operated by myself personally before it was incorporated.

Q. And the Miller Salvage Company did keep books? The Miller Salvage Company did keep books before incorporation?

A. I didn’t. I’m not sure, but I think the books were started after the incorporation.

Q. Wasn’t Mr. Henderson with you from the time the Miller Salvage Company was incorporated?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. And didn't he keep the books of that company?

A. Let me answer this. When we incorporated we went down and got an expert on accounts to show us how to start the books and they started the books for us and for Henderson. They opened the books for us. I'm not a bookkeeper. Mr. Hogan in the brewery was interested with me at that time in [1750—917] the Miller Salvage Company, and he said we'd better have a man to open the books and we'd better go to the expense of \$30.00 and get it done. Now, Davis was one of the parties of the firm and we started those books. He started them and opened them and then he showed Henderson, our bookkeeper, how to continue to keep them. I want to go on in my own way if you'll permit me. The question of the cost of the "Makee" come in. He said, "How much did you pay for the 'Makee'?" I said, "\$4500.00." "How much did you pay for the windlass and the hawse-pipes and the buoy on her?"

Q. Now, if the Court please, I submit this is incompetent evidence and I have a right to stop the witness here. I ask that the Court instruct the witness now to answer the question now. Were any books kept of the Miller Salvage Company prior to incorporation?

The COURT.—The whole line had better be stricken. You'd better start over again.

Mr. OLSON.—Then the answer is stricken as I understand it. Now, then, Captain Miller, will you say whether or not any books were kept of the affairs and accounts of the company carried on by you prior to the incorporation of the Miller Salvage Co., Ltd.?

(Testimony of Frederick C. Miller.)

A. No, sir.

Q. None whatever?

A. I do not think there was.

Q. What was Henderson doing for you in your employ at that time? A. ——— for me.

Q. And didn't keep your books? A. No.

Q. Where is Henderson now?

A. In the employ of the Pacific Oil and Transportation Company.

Q. He can be obtained and brought in here as a witness, [1751—918] can he? A. Yes.

Q. How many years had you been in business, doing business under the name of Miller Salvage Company, prior to the incorporation of the Miller Salvage Company, Limited?

Mr. MAGOON.—Object to that, it is immaterial.
The COURT.—Objection overruled.

A. When did you say?

Q. Yes.

A. Beginning with the time I bought the "James Makee."

Q. I think you testified that you bought that in the latter part of 1906?

A. Latter part of 1906 until, I think, 1907, we was incorporated. I'm not sure.

Q. Weren't you doing business from 1904, the time you first came to Honolulu, up to 1906?

A. From 1904 to 1906. Ever since I've been in Honolulu I've been interested in salvage work.

Q. You've been in business as a salvor?

A. I worked as a salvor.

(Testimony of Frederick C. Miller.)

Q. And you carried on the work, lightering and towing and salving? A. Yes.

Q. Under what name were you carrying on business? A. My own name.

Q. How many boats did you have?

A. I had the "Lihue" and "Elehu." I think the "Lihue" was the first boat that I owned in these islands that ever did any salvage work.

Mr. MAGOON.—Object to this, if your Honor please, as entirely immaterial.

A. None other that I can recollect.

Q. But you were actually engaged in the business that I've referred to from 1904 to 1907?

A. Yes.

Q. You had a number of men employed?

[1752—919] A. Not a large number.

Q. You kept no accounts?

A. I kept no accounts whatever.

Q. You kept no labor accounts?

A. No, except paying the men off.

Q. Didn't keep any books at all? A. No.

Q. Didn't keep any labor account?

A. Except the weekly pay-roll.

Q. What did you do with the pay-roll?

A. After the men was paid off threw it away.

Q. From 1906 on to the time of the incorporation of the Miller Salvage Company, you kept no accounts?

A. I never kept an account until someone else was interested in the company.

Q. Wasn't there someone else interested prior to

(Testimony of Frederick C. Miller.)

the incorporating of the company?

A. Not a man, nobody.

Recess.

Q. And you say that it cost you \$4,500.00 to purchase and install the windlass that you testified to this morning, in the "James Makee"?

A. In the "James Makee." The same as I state now.

Q. And that includes—and that figure comprises the price you paid for the windlass?

A. Yes.

Q. The price that you paid for the labor you've testified to in the installation cost? A. Yes.

Q. And the price paid to the Honolulu Iron Works for the two hawse-pipes. That amounted to \$4,500.00? A. Yes.

Q. Captain, do you know where that windlass came from? A. Yes. [1753—920]

Q. Where did it come from?

A. I know where it was.

Q. Where?

A. To the best of my belief the name, if I remember correctly, was "—— De Richmond."

Q. That was brought to Honolulu by whom?

A. Brought to Honolulu by Captain Weisbarth.

Q. And sold to you by whom?

A. By Stevens, a man by the name of Stevens, who was then the auctioneer for James F. Morgan, who was then acting for James F. Morgan.

Q. Do you know what you paid for that anchor?

A. For that anchor?

Q. For that windlass.

(Testimony of Frederick C. Miller.)

A. I don't remember just what I paid for the windlass.

Q. Do you know what you paid to the Honolulu Iron Works for the hawse-pipes? A. I don't.

Q. Did it amount to a thousand dollars or two that you paid for that windlass?

A. I don't recollect.

Q. Do you think it did? A. No, I don't.

Q. Have you no idea?

A. I have an idea that the windlass itself cost somewhere under \$500.00.

Q. Isn't it a fact that it cost you just \$105.00?

A. No, it's not a fact.

Q. Isn't that the amount that you paid at auction?

A. I don't believe it was.

Q. Don't you know you paid \$105.00 for the windlass? A. No.

Q. If Mr. Morgan's books—Mr. Morgan being the man of whom you purchased the windlass—if Mr. Morgan's books show that you paid \$105.00, do you think that is right? A. If the book says so.

Q. It might have been \$105.00?

A. It might have been.

Q. And was nothing like \$500.00?

A. I think it was under \$500.00 that I paid for it in the [1754—921] yard as it laid there. You understand me, distinctly, Mr. Olson. I'm stating that when I brought it from the place I bought it as it lay in the yard.

Q. How large is that windlass? How heavy?

A. The windlass is about six tons.

Q. You brought it from the yard to the "James Makee"?

(Testimony of Frederick C. Miller.)

A. I think it was from the yard to the Honolulu Iron Works to get some work on it, and if I remember right Hustace Peck hauled that from that yard to the Honolulu Iron Works.

Q. How much did you pay to Hustace Peck?

A. I couldn't say.

Q. Was it as much as \$50.00?

A. I don't think so.

Q. You are sure it wasn't that much?

A. I wouldn't have paid them \$50.00.

Q. You are very sure it was less?

A. I think so.

Q. And the Honolulu Iron Works did some work on it?

A. They did work on that. Whether I hauled it to their shop or not I don't remember.

Q. And you paid them how much for doing this work? A. I don't recollect.

Q. If the books of the Honolulu Iron Works show that you paid \$50.00 would you say that was correct?

A. Yes.

Q. You are pretty sure you didn't pay any more than that? A. No.

Q. Was it more than a hundred dollars?

A. I wouldn't state to you now.

Q. Was it more than \$500.00?

A. I don't know, I don't think it was more than \$500.00.

Q. You are pretty sure that it wasn't?

A. That's the best of my knowledge and belief.

[1755—922]

Q. Now, then, how much did you pay to the Hono-

(Testimony of Frederick C. Miller.)

lulu Iron Works for those hawse-pipes?

A. I don't recollect.

Q. Have you any idea?

A. I couldn't tell you.

Q. You have no opinion? A. No.

Q. Was it as much as \$1,000.00?

A. When I tell you I have no idea I only know they were special made and we had to make a pattern and they was extra heavy.

Q. You've had a good deal of experience with the repairing of ships? A. I have.

Q. You've owned vessels? A. Yes.

Q. You've had to repair vessels a good many times? A. Yes.

Q. What is your judgment on those hawse-pipes?

A. My judgment on that line of work would be, in my judgment, that the hawse-pipes shouldn't cost over \$250.00 or \$300.00.

Q. Now, if the books of the Honolulu Iron Works show that you paid for one of those hawse-pipes \$71.25 and the other \$65.60, would you be prepared to say that is not correct? A. Yes, I would.

Q. You are sure?

A. They were both the same style and one wouldn't be more than the other.

Q. You are willing to swear that isn't correct?

A. I don't know.

Q. Here's a difference of \$6.00 and yet you say that the books of the Honolulu Iron Works, that those figures are necessarily incorrect?

A. I say that they were incorrect for this reason, both hawse-pipes are the same size and weight and

(Testimony of Frederick C. Miller.)

they charge more for one than for the other.

Q. In the total sum paid by you to the Honolulu Iron Works for their work and the materials supplied for those hawse-pipes, \$136.35 altogether. Would you be prepared [1756—923] to say that that figure was incorrect?

A. I think if their books show that it must be right.

Q. Is that a reasonably low figure for those two hawse-pipes? A. I think that's a low figure.

Q. You don't think it's too low?

A. I don't think they could be duplicated for that.

Q. You've had a good deal of experience?

A. I've had experience enough to know that was too low.

Q. If that's the amount they charged you, that must be right, and it's not so unreasonably low that you say it's incorrect?

A. I say if their books show that is the amount it must be right.

Q. Did you buy other hawse-pipes during the year? A. I'm not sure.

Q. Answer the question. A. I don't know.

Q. Did you buy any hawse-pipes during that year?

A. I had them make two or three sets of hawse-pipes for me.

Q. For the "James Makee"?

A. Only one set for the "James Makee."

Q. Did you have any other hawse-pipes made?

A. Yes.

Q. During that year? A. I don't remember.

Q. You aren't prepared to say?

A. No, you're talking about something four or five years ago.

(Testimony of Frederick C. Miller.)

Q. Now, then, Captain Miller, it took about a month to repair, to install that windlass and those hawse-pipes?

A. That's about my best knowledge and belief.

Q. And, according to your testimony this morning, the amount that you paid for the labor in that installing was about \$540.00?

A. Whatever it figured up, I didn't figure it up. I told you what men I had and what I paid. [1757—924]

Q. One engineer at \$150.00 for the month?

A. Yes.

Q. Three men, \$135.00?

A. Three firemen at \$45.00.

Q. Three men, \$180.00, that is, \$2.50 a day?

A. Yes.

Q. \$75.00 for one man? A. Foreman.

Q. That, amounting to \$540.00 is the amount that you, according to your best recollection, paid for the installing of that windlass in the way of labor?

A. Yes. You didn't ask me this morning whether there was any other work on it.

Q. I asked you if you had given all.

A. All the labor.

Q. I asked you if the \$4,500.00 comprised the amount you paid for the windlass, the amount you paid to the Honolulu Iron Works for the hawse-pipes, you later speaking up saying you paid something for labor; and the labor for installing.

A. Yes, and the piping.

Q. What kind of piping?

A. I had to connect the windlass up with the boiler.

(Testimony of Frederick C. Miller.)

Q. How much did that cost? A. I don't know.

Q. How much do you think? Where was it done?

A. I don't know. If you want to know what I think it cost?

Q. How much do you think it cost?

A. I think that the piping cost from seventy-five to eighty dollars.

Q. That would be the outside figures?

A. I'm giving you the best of my recollection.

Q. Now, what else was there?

A. There was the buttplate for it.

Q. Who supplied that?

A. We bought that there from Lewers & Cooke.

Q. What kind of lumber was it? [1758—925]

A. I don't remember. It shows for itself.

Q. What kind of lumber was it?

A. If I remember, it was oak.

Q. And how much lumber was there?

A. I don't remember just what it was.

Q. How much do you think?

A. Approximately, probably the lumber and the putting in. There was a lot of other—

Q. I'm not asking about these other things, I'm asking about the oak lumber.

A. There should not have been \$50.00 or \$60.00.

Q. That's the outside figure?

A. I would say that would cover it.

Q. That includes the price of lumber and putting it in? A. No, includes the price of lumber.

Q. How much for building that?

A. We took out the old windlass, located her new one and then put this buttplate.

(Testimony of Frederick C. Miller.)

Q. What did it cost according to your best judgment, for the installing of that buttplate after you purchased the lumber?

A. I would say two or three hundred.

Q. Who did it? A. Our own men did it.

Q. How long did it take to do it?

A. I don't remember.

Q. You have no opinion? A. No.

Q. Why do you say two or three hundred dollars?

A. Because a like job would cost me that now.

Q. Now, what else was there?

A. I don't remember what else.

Q. Anything else that you can think of? Was there anything else?

A. There may have been. I just remembered now since I've been on the stand of some things.

Q. Kindly refresh your memory as best you can and give us [1759—926] what else was done.

A. Let it go at that; I'm satisfied.

Q. You think that's all?

A. I think that's fair.

Q. And if the figures that I've given to you as shown by the books of Morgan, the Honolulu Iron Works, and the figures that you yourself have given, come up to \$1,221.75, how do you make up the balance of \$4,500.00 that you've testified to?

A. I don't make it up.

Q. Why did you say it cost you \$4,500.00 to put that windlass in?

A. The approximate price of putting it in I gave to our bookkeeper as \$4,500.00 and that was the time it was fresh in my memory. I just recollect now that the books—

(Testimony of Frederick C. Miller.)

Q. Where is the rest of the seventy-five per cent of the cost of installing of the windlass that you have testified to? A. Where is that?

Q. Where is the seventy-five per cent of the cost of the installing of the windlass that you have testified to?

A. I'm taking your figures. I'm not satisfied in my own mind that they are right.

Q. Will you kindly, at your return here to-morrow, consult with Mr. Morgan and the Honolulu Iron Works and ascertain whether or not the figures I've given you are correct?

A. If you've gotten them from them and say they are correct I'll admit them as a fact.

Q. I tell you that that is the fact.

A. I am satisfied.

Mr. OLSON.—If counsel for the Miller Salvage Company are willing to admit that those are the figures that the books of Mr. Morgan and the Honolulu Iron Works show? You admit that, Captain?

A. I told you if they told you that I was satisfied that was right.

Q. In other words, you take my statement that Mr. Morgan informed me that that was the figure that was paid for the [1760—927] windlass, \$105.00 and also that the Honolulu Iron Works informed me that \$50.00 was paid for work done on the windlass?

A. Yes.

Q. And the sum of \$136.75 for the hawse-pipes, and you're willing to accept my statement? And you are willing to admit that those are the amounts paid by you?

A. I will. One thing more before you close that

(Testimony of Frederick C. Miller.)

little account. What did Sorenson & Lyle charge me for reinforcing of bow and putting on those hawse-pipes?

Q. Is that a part of the installing of that windlass?

A. Most assuredly.

Q. Is that a part of the reconstruction of the bow that you testified to?

A. No, sir; that was done before the new bow was put in. We had to reinforce that bow so as to carry it. It's part of the work they done. I think they did it; I'm not sure.

Q. This was all done at the time that you purchased this, all around about the time that you purchased that anchor and had this work done by the Honolulu Iron Works, the installing of the windlass?

A. The purchase of the windlass. It took us about a month to put it in. I don't remember now when the windlass was put in.

Q. You bought that anchor—

A. Windlass.

Q. I mean windlass. You bought that windlass and had this work done on the windlass at the Honolulu Iron Works, procured from them those hawse-pipes and installed the windlass within what period of time? How long would you say from the time that you first purchased the windlass until you finally had the windlass installed on the "James Makee"?

A. Oh, from the time I first purchased that windlass until I had it installed?

Q. Yes.

A. I guess—I'm giving you the best of my knowledge,—about six or seven months. [1761—928]

(Testimony of Frederick C. Miller.)

Q. Six or seven months? A. I think.

Q. When was this work done by Sorenson & Lyle on the marine railway?

A. I don't remember. Oh, on the marine railway.

Q. I mean on the "James Makee"?

A. I don't know.

Q. Was it before you put that windlass in?

A. No, they was—this reinforcing of the bow, I think they done. I'm not sure.

Q. When?

A. They were doing it at the time—they had to do it at the time they put the hawse-pipes in.

Q. The windlass and the hawse-pipes were put in about the time that Sorenson and Lyle did this work on the "James Makee"?

A. Whatever time they put the hawse-pipes in. I don't know the time the windlass was installed.

Q. That was done as soon after you got the windlass from the Honolulu Iron Works as it was possible?

A. As soon as the Iron Works got through and I think it was then we done the work. Right after that it was put on the ship.

Q. Right after? A. A short time after.

Q. This work on the bow was done after the installing? A. It may have been but I don't think so.

Q. What had it to do with the installing of the windlass?

A. It was just possible you can put the windlass on first and then put the hawse-pipes between.

Q. Well, the hawse-pipes were installed at the time the work was done on the bow of the "James Makee"? A. About the same time.

(Testimony of Frederick C. Miller.)

Q. It must have been done at the same time?

A. I think so. [1762—929]

Q. How could the hawse-pipes be installed if it was not necessarily at the same time?

A. I think it was.

Q. It must have been.

A. Not necessarily must.

Q. Didn't you say that the repairing of the bow had something to do with the installing of the windlass and hawse-pipes?

A. The repairing of the bow had to be done before you could put the hawse-pipes in because the hawse-pipes that was originally there was only about eight inches diameter and these were twelve inches diameter and there was no way of passing them hawse-pipes. Those hawse-pipes weigh about four or five hundred pounds each.

Q. That being so, Captain Miller, how long was it after you received these hawse-pipes from the Honolulu Iron Works that they were installed?

A. After we got the hawse-pipes it couldn't have been long.

Q. Practically a little time?

A. Practically so.

Q. Within a month or two? A. Sure.

Q. Now, then, Captain Miller, if those hawse-pipes were delivered to you on or before the 12th day of November, 1906, this work on the bow of repairing the "James Makee," the work done must have been completed before the end of 1906, was it not?

Mr. MAGOON.—I object to it, it's merely his calculation.

A. Yes.

(Testimony of Frederick C. Miller.)

The COURT.—I think it's proper.

Q. You answered yes to the question? A. Yes.

Q. That, then, with the installing of the hawse-pipes must have been completed before the end of 1906 if the hawse-pipes were delivered to you by the Honolulu Iron Works on or about the 12th day of November, 1906?

A. It is reasonable to suppose so. [1763—930]

Q. You are pretty sure it was done?

A. I'm pretty sure.

Q. Sure that the work was done by Sorenson & Lyle?

A. Excuse me, one minute, Mr. Sorenson, Mr. Olson. I think they done the work. When I say Sorenson & Lyle done the work it is because they do most of my work.

Q. Who did it then if they didn't?

A. If they didn't there is other experts.

Q. Who did it?

A. I can't say. I had a gang of Chinese carpenters to replank on the "Kaimiloa." I've got Japanese carpenters.

Q. Isn't it the fact that you paid to Sorenson & Lyle the sum of \$482.07 on the 8th day of September for the work done that you have testified to?

A. I don't know, but if their books so show I will admit that that amount was paid to them on the 8th day of December, 1908, as shown by my books. I'd say so yes, 1906, in September, 1906.

Q. If from my examination of their books I found that you paid to them on September 8, 1906, the sum of \$482.07 to Sorenson & Lyle, is that not the sum that you paid them for the work of installing that

(Testimony of Frederick C. Miller.)

windlass and two hawse-pipes and repairing of the bow to which you testified?

Mr. MAGOON.—I object to that.

Mr. OLSON.—I'm willing to withdraw the question. Did you or did you not, on the 8th day of December, 1906, pay to Sorenson & Lyle the sum of \$482.07 for the work that you've testified that was done on the installing of that windlass and hawse-pipe?

A. I couldn't say whether I had or hadn't.

Q. Did you about that time?

A. I may have done it.

Q. Isn't it the fact, Captain Miller, that you paid almost \$500.00 for the work that you have testified to in the repairing [1764—931] of that bow and the installing of that windlass and hawse-pipe, other than the figures that you gave to me previously?

A. I think that the repairing of that bow and those other figures cover it. I don't know of anything else. I don't remember.

Q. \$500.00 would be about the right figure?

A. \$500.00 would be the right figure.

Q. That would be your estimate in the same way that you estimated these other amounts? A. Yes.

Q. Now, then, Captain Miller, if \$500.00 covers that, then with these other figures I find that it totals the sum of \$1,721.78. Where do you get the rest of \$4,500.00 that you testified to? A. Give it up.

Q. You are pretty sure that you were wrong?

A. No, I'm not.

Q. How do you make it up?

A. I don't recall now. I don't say that I'm wrong.

Q. You're a practical seaman? A. I am.

(Testimony of Frederick C. Miller.)

Q. You're a master mariner? A. I am.

Q. You have been master of boats?

A. I am the holder of a license in these Pacific waters.

Q. As a practical seafaring man, is it possible for you to recall any other work that was done?

Mr. MAGOON.—I submit, may it please your Honor—

The COURT.—I've passed that.

Mr. MAGOON.—Your Honor rules that this question can be asked over again?

Q. Now then, Captain, as a practical seafaring man and master mariner, as an owner of vessels for many years, having had a great deal of experience in the matter of repairing of vessels and knowing a great deal about vessels, is it impossible for [1765—932] you to recall what else was done except what you've already testified to?

A. It's impossible for me to recall.

Q. As a practical seafaring man, master mariner, owner of vessels, having had much and extensive experience in repairing of vessels, you cannot recall to your mind any other thing than what you've testified to here?

Mr. MAGOON.—Object to it on the ground it has been already answered.

The COURT.—I'll allow the question.

Mr. MAGOON.—I want your Honor's ruling on that question.

Mr. OLSON.—I wish to alter the last question. Instead of saying "Can you not recall any other thing?" in place thereof, "Can you not recall any

(Testimony of Frederick C. Miller.)

other thing which might have entered into the installing?"

A. I can recall a good many things.

Q. What?

A. What I had to know of, we had to put in a new piston in the cylinders.

A. Cylinders of the winch.

Q. Catton-Neil did it? A. I did.

Q. Are you sure?

A. I'm not sure. We might have had to put in a good many things to it. I don't recall many more important details.

Q. In regard to this piston, if Catton-Neil did not do it what other firm did it except Catton-Neil and the Honolulu Iron Works? A. None other.

Q. Catton, Neil & Co. are doing business at the present time? A. Yes.

Q. And can testify? A. Sure.

Q. Did they do it? A. They did it.

Q. Do you mean to say that you took that windlass over to the Honolulu Iron Works and then took it over to Catton-Neil?

A. I said I don't remember now whether I sent the windlass to the Honolulu Iron Works [1766—933] or whether I took it to the Hackfeld wharf.

Q. In other words, it is possible that Catton-Neil might have done it? A. They might have done it.

Q. You don't remember, do you?

A. I think they put it in. I know we had to have it done.

Q. How much would that cost?

A. It wouldn't cost anything more than eighteen

(Testimony of Frederick C. Miller.)

or twenty dollars.

Q. What other item is there?

A. I told you I knew of no other large item of expense that we've entered into because of that windlass.

Q. And you believe that there is nothing else that could have entered into it of any importance?

A. Of any importance that would cut any figure.

Q. So out of this \$4,500.00 all you can explain is about \$1,800.00?

Mr. MAGOON.—Object to it, it has been answered.

The COURT.—Objection sustained.

Q. Now then, Captain Miller, this work then was all completed, was it not by the end of 1906?

Mr. MAGOON.—I object to the question on the ground Captain Miller stated he couldn't say positively.

Q. It having been admitted by you, Captain Miller, that the installing of this windlass and the hawse-pipes and the repairs and the repairing that you've testified to was completed by the end of 1906, will you testify what else was done on the "James Makee" from that time on during the year 1907?

Mr. MAGOON.—I object to the form of the question.

The COURT.—I sustain the objection.

Q. If it's true that the installing of that winch, that windlass and the hawse-pipes and the repairing that you've testified to in connection with their installing, isn't it true that that was completed somewhere about the end of 1906?

The COURT.—I allow the question.

(Testimony of Frederick C. Miller.)

A. I think so. You can tell better than I. If those bills [1767—934] state that I paid that money at the end of 1906 then I would say that the windlass was put in in 1906.

Q. You bought the "Makee" in 1906?

A. When did you say those bills were?

Q. November 12, 1906, was the last bill.

A. On the "Makee"?

Q. On the "Makee."

A. Then I would say by the end of 1906 this windlass was installed.

Q. It was?

A. I would say that would be my evidence now to you.

Q. You are sure it was not absolutely at the end of that time? A. About that time.

Q. Now then, in order that the record may be clear, I'll ask counsel to admit that the last of those hawse-pipes was delivered to Captain Miller on the 12th of November, 1906.

Mr. MAGOON.—We don't admit it.

Mr. OLSON.—Now then, Captain Miller, since this point is not absolutely disposed of in the record, how long after the acquisition by you of the "James Makee" from the Inter-Island Steam Navigation Company was it until this work of installing the windlass and hawse-pipes was completed?

A. How long afterwards?

Q. Yes, how long after that, after you bought her?

A. I would say—I'm giving you the best of my judgment—I would say five or six months.

Q. That would bring it near sometime in 1907, wouldn't it?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—I object on the ground that it's a conclusion.

A. I don't remember when that was, before or when.

Q. You say within five or six months?

A. Within that time.

Q. Did you spend any other money on the "James Makee" for installing this windlass?

A. She's been a constant bill of expense. [1768—935]

Q. What did you do in the way of repairing her from the time that you purchased her?

A. I'd have to get my books and Sorenson & Lyle's books and show you how much.

Q. I'm asking you to approximate it. From this windlass and hawse-pipe?

A. Why, Mr. Olson, I couldn't give you an idea.

Q. How was that?

A. I couldn't give you an idea. I could say I've spent on it from six to eight thousand.

Q. Before the end of 1907?

A. From the time I bought her.

Q. Up to 1907?

A. Up to 1907, not taking into consideration that windlass.

Q. Didn't you return for taxation the "James Makee" on or about the first part of 1908, didn't you swear in your tax return in the Territory of Hawaii, that the "James Makee" was then worth \$3,500.00?

A. I don't know.

Q. Do you deny that you did?

A. I deny any knowledge of it. I never kept the

(Testimony of Frederick C. Miller.)

books of the company and I never made up the tax returns.

Q. You never swore to that tax return?

A. I don't say I didn't swear to it. The bookkeeper bring me the tax bills to swear to and I swore to them and turned them in.

Q. You don't know whether or not you swore to any such tax return?

A. I think as a matter of fact I was president of that company with the exception of the short time Eben Low was president and when the bookkeeper brought me the tax returns I'd swear to them.

Q. Are you in the habit of swearing to statements of that sort whether you know they are true or not?

Mr. MAGOON.—Object to it.

Q. Are you in the habit of swearing to statements without knowing whether or not they are true?

A. Invariably I've been in the habit of taking the accounts [1769—936] that's in my books without a personal knowledge myself.

Q. You knew that you had spent this large sum?

A. Sure, I paid \$4,500.00 for her, cash, and then put in that windlass and spent five or six thousand.

Q. Did you look at the tax returns?

A. I didn't notice. Had I noticed it was \$3,500.00, I'd have stopped it right then. You can bet on that.

Q. You paid \$4,500.00 for the "James Makee"?

A. That was the original price that I paid for her.

Q. You said a few moments ago that the "James Makee" has been a continual source of expense to you? A. Yes.

Q. She still is?

(Testimony of Frederick C. Miller.)

A. We've been improving her continually.

Q. She still is?

A. We haven't finished up our improvements on her yet.

Q. You call the improvement of the vessel a source of expense, do you? A. Sure.

Q. Aren't some of those improvements of upkeep, for keeping her up?

A. Yes. The consumption of coal and the paints and oil, I don't consider that.

Q. I'm asking you about the source of expense in her repairing and not in the running expenses.

A. Well, it's pretty hard to separate the running expenses sometimes, from the—from her improvements. We are spending money yet I told you all the time.

Q. She requires it, doesn't she?

A. Not more than any other wooden ship.

Q. Her condition is such that she requires it?

A. Sure, every ship does.

Q. She wouldn't be in a useful condition unless you did? A. That's a fact. No other ship would.

Q. How old is she?

A. I don't know. I should [1770—937] say twenty or thirty years old.

Q. Over thirty years old, isn't she?

A. Possibly.

Q. Has her hull ever been reconstructed?

A. I don't think there's a piece of her original hull.

Q. She's been repaired so much?

A. She's been rebuilt practically.

Q. Is the "Makee" here in the city?

(Testimony of Frederick C. Miller.)

A. She's here in port.

Q. She can be examined any time?

A. She can be examined any time.

Q. How old is the "Mokolii"?

A. The original "Mokolii" is, I guess, is nearly thirty years old.

Q. How old is the "Kaimiloa"?

A. As near as I can figure, I looked up her history, I should tell you about sixty-five or seventy years old. Whenever the first boat crossed the Firth of Forth and she was built two years prior to that.

Q. How old was the "Concord"?

A. About sixty years old.

Q. The "Concord" sixty years old?

A. Oh, now, I don't remember. I think she's about in the neighborhood of twenty-eight or thirty years old.

Q. And they are all wooden vessels?

A. All wooden vessels.

Q. All of them now in first class condition?

A. No.

Q. What is the condition?

A. The "Kaimiloa" is in good condition, the "Mokolii" is repairing; the "Concord" could take fifteen ton.

Q. They were all in first-class condition in December, 1909? A. No, they were not.

Q. Isn't it the fact that the boats strained out all the timbers? A. No, sir.

Q. Were they new timber?

A. They were new timber.

Q. What about the "Kaimiloa"?

(Testimony of Frederick C. Miller.)

A. The "Kaimiloa," brand new [1771—938] bitts and windlass.

Q. And the "Concord"?

A. The "Concord's" windlass was not good.

Q. What about the bitts?

A. The chock and bitts—I don't say the "Concord's" bitts were torn out.

Q. They weren't?

A. If the record shows that I said so it was because her bitts were torn out.

Q. The "Makee" and "Kaimiloa" and that other boat had bitts torn out?

A. The "Makee" had her bitts torn out and the "Kaimiloa" had her bitts torn out. No other boat had her bitts torn out. The "Concord" had her windlass.

Q. What was the condition of the timbers around the bitts? A. They were good.

Q. First-class condition? A. Bright new wood.

Q. What?

A. Bright new wood. The "Concord" shows now.

Q. When were they repaired? When had they been repaired prior to that time so that this wood was new?

A. I think I put that chock, the "Kaimiloa," in myself. The "Makee," I put on her bitts myself. The "Concord's" chocks, I don't remember whether I put them in or whether Sorenson & Lyle put them in. They just spent \$1800.00 on the "Concord" and I bought the "Concord" from them.

Mr. OLSON.—Move to strike what Sorenson &

(Testimony of Frederick C. Miller.)

Lyle paid for the "Concord." It's irrelevant and furthermore it is hearsay.

The COURT.—Motion is granted.

Q. How much did the "Concord" cost when you purchased her?

A. The "Concord," when I first purchased her, I think I paid \$800.00 or \$850.00. \$800.00 or \$850.00; somewhere in the neighborhood of that.

Q. I think you testified a few moments ago that Sorenson & Lyle had spent \$1800.00.

A. So they did.

Q. And you bought it for \$800.00 or \$850.00?
[1772—939] A. Yes.

Q. How did you happen to get her at such a low price?

A. This Sorenson & Lyle, as they explained it to me, repaired the "Concord" for a man named Dutot. Captain Dutot couldn't pay the bill and they said they didn't want it themselves, they'd be willing to lose the balance of the bill if I'd give \$800.00 or \$850.00.

Q. How much did the "Mokolii" cost?

A. The "Mokolii" when I first purchased her cost me \$350.00.

Q. How long ago?

A. I couldn't tell you. I think six or seven years; say in the neighborhood of six.

Q. That's the boat that you've put at \$8,000.00.

A. That's the one.

Q. How much did the "Kaimiloa" cost you?

A. The "Kaimiloa" don't belong to me—didn't cost me anything; I hired her.

(Testimony of Frederick C. Miller.)

Q. To whom did she belong?

A. Pacific Oil and Transportation Company.

Q. Did you purchase that boat for them?

A. No, sir.

Q. Did you ever buy it from them? A. No, sir.

Q. How do you know she's worth \$2,000.00?

A. I base that on this: Scrap Iron Brown paid, but I don't know this of my own knowledge, paid for her \$1,000.00.

Q. You don't know that of your own knowledge?

A. I know she's insured for \$1500.00.

Q. What did you pay for the "Elizabeth"?

A. "Elizabeth," when I first bought her, if I remember right, we paid \$8,000.00.

Q. What's her present value?

A. Present value, \$4,000.00. That was her value then.

Q. How long ago is it since you bought the "Elizabeth"?

A. I don't remember, Mr. Olson, how long ago.
[1773—940]

Q. About how long ago?

A. It was two or three years ago.

Q. How long had you owned this six or seven ton anchor that you used out there in those salvage operations, prior to the time of the salvage operations?

A. I owned that since the day it came back from the "Manchuria."

Q. How long was that before the salvage operations? That was in 1906?

A. You've got that day.

Q. September, 1906? A. Yes.

(Testimony of Frederick C. Miller.)

Q. And what did you pay for that?

A. I paid for the anchor and some other material which was thrown in with it, if I remember right, \$4,500.00.

Q. You don't know what the anchor itself—I'll drop this line of cross-examination for the moment and return to the tax assessments. I will show you—I show you, Captain, a document which is labeled, "Property Tax Assessment Schedule for the District of Oahu, Island of Oahu, 1908. Statement of Miller Salvage Company," and I ask you to look at the signature on that document. I ask you if that is your signature, "Frederick C. Miller"?

A. That's my signature.

Q. And that's in your handwriting?

A. That's my handwriting.

Q. Was this tax return made by you?

A. Let me see if the rest is my hand—if the rest is my handwriting.

Q. The tax returns?

A. That is my handwriting.

Q. I'll ask you to refer to the first item.

A. Steamer "James Makee."

Q. I ask you if that is in your handwriting, "Steamer 'James Makee' "? A. That is.

Q. What is the value according to your returns?

A. That's stated here as \$3,500.00. [1774—941]

Q. Now, then, I'll ask you to read the oath that you took to that tax return. Did you swear to that tax return?

A. I think I did. It's reasonable to suppose I did.

Mr. WEAVER.—I object to that as not responsive to the question.

(Testimony of Frederick C. Miller.)

Q. Didn't you swear to it?

A. I suppose I did. I don't think they'd take it without it.

Q. Is not the oath, "I do solemnly swear that the list herein contained and the values herein stated are true and correct to the best of my knowledge, information and belief, so help me God. Frederick C. Miller."?

A. That's what it is.

Q. Is that correct?

A. That's correct.

Q. Is it admitted that this is the tax return of Mr. Miller. Is it the tax return that you made?

A. I think it must be.

Q. Is it?

A. It's in my handwriting. I stated that.

Mr. WEAVER.—Captain, will you look at this oath or statement, "I do solemnly swear," and so forth, over your signature, and say whether or not you did or did not swear to that at that time?

A. I can't say whether I did or didn't. I don't want to be misunderstood in this thing. I tell you frankly that if I didn't swear to it I should have done so.

Mr. OLSON.—You intended to.

A. I probably did or else I wouldn't have wrote it.

Mr. WEAVER.—Did you know—was this paper signed that way?

A. I probably signed that way.

Mr. OLSON.—Now, Captain Miller—what, Captain Miller, was the value of that anchor that you bought which was used out there at the "Celtic Chief" operations, if you know?

A. What was the value of it? [1775—942]

Q. Yes, at that time.

A. I should say about \$2,000.

(Testimony of Frederick C. Miller.)

Q. How much? A. \$2,000.

Q. You owned that in 1908, did you not?

A. Yes.

Q. Didn't you, in this tax return, make it \$800.00?

A. No.

Q. You did not?

A. If it's not on there I did not make it.

Q. Will you examine this tax return and see if you did? A. These anchors mean one.

Q. All, that included?

A. It might and might not.

Q. You owned it at that time? A. I owned it.

Q. So you make a property tax return of \$800 for anchors which included this six or seven-ton anchor?

A. Is this personal property of Miller Salvage Company?

Q. Personal property of the Miller Salvage Company. A. Yes, we owned it at that time.

Q. Was that a fair value or not? A. \$800.00?

Q. Yes. A. For all my anchors?

Q. Yes.

A. I don't think so. I wouldn't have sold them for that.

Q. Why did you return it at that?

A. Because it—

Q. You were trying to have a low assessment maybe? A. Probably that was it.

Q. You intended that the Government should accept as a return of your property, a figure far below the value, is that correct?

A. Whether I intended or not, it is evident that I did right there, because I wouldn't have sold the anchor for \$800.

(Testimony of Frederick C. Miller.)

Q. In other words, this was a representation by you to the Territory of Hawaii? [1776—943]

A. That's what it is.

Q. And you intended to defraud the Territory of Hawaii when you put in a return of property which you now say is obviously too low?

Mr. WEAVER.—Object to it; incompetent, irrelevant, and immaterial.

A. Repeat the question.

Mr. OLSON.—So that there should be no question, I'm willing that the Court should advise the witness; it's been suggested by counsel, and I'm willing that the Court should advise the witness.

The COURT.—You know your constitutional privilege. If you desire you don't have to answer that question.

A. I don't care to answer it in the form that Mr. Olson put it, because it is rather obnoxious to me I'll say this, your Honor, with reference to this—

The COURT.—I think the question is proper. You have your privilege.

A. I wish to make this explanation. I'm speaking of myself. I don't think that I put down as the valuation of my property just what I'd sell it for or what I personally think it's worth, and I'll also say that I don't think that I have any desire to defraud the Territory or anyone else.

Mr. OLSON.—Now, as I understand it, the witness has not used his privilege?

The COURT.—No.

Q. Now, then, Captain Miller, you say that you did not intend to defraud the Territory of Hawaii when

(Testimony of Frederick C. Miller.)

you put in as your return the value of your anchors at \$800 when you say that one anchor alone that you had at that time was worth \$2,000.00.

A. Yes, I'll say that I didn't intend to defraud the Territory of Hawaii or anyone else.

Q. You didn't intend, then, to defraud the Territory of Hawaii [1777—944] by making a return that was about one-quarter, actually over fifty per cent less than the value of one of those anchors?

A. Yes, that's right.

Q. But you did intend the Territory of Hawaii to believe or the tax officials of the Territory of Hawaii to believe that that was the real value of all of your anchors?

A. If they didn't want to take my word for it they could go and look at it themselves.

Q. But you made that return in order that they should take them as a valuation and you gave them your word to that effect.

A. I gave them my word to that effect.

Q. You made that representation? A. I did.

Q. And intended that they should assume that that was the value of those anchors?

Mr. WEAVER.—I submit that question has been asked and answered in the first place.

The COURT.—I would infer from what he has testified already that he's answered that question, but I'll allow the question.

A. Yes.

Q. How many other anchors did you have at that time besides this big six or seven-ton anchor? When I say you, I mean the Miller Salvage Company.

(Testimony of Frederick C. Miller.)

A. I don't remember.

Q. You had others? A. Yes.

Q. How many others do you think?

A. Probably two or three.

Q. How much were they worth?

A. I don't recollect the size of the others.

Q. What was their value approximately?

A. Oh, they'd run all the way from \$50.00 to \$200.00.

Q. A piece? A. A piece. [1778—945]

Q. This one large anchor and four or five others?

A. Two or three others.

Q. One would be \$50.00?

A. Say from \$50.00 to \$200.

Q. Each you mean? A. Each.

Q. That is, they might have been worth \$600 altogether. A. They might have been.

Q. And you think they were worth \$600?

A. The three?

Q. Yes. A. I don't think the three anchors.

Q. How much were they worth altogether?

A. The three anchors would be worth probably \$200.00.

Q. How much did the largest of those weigh?

A. I don't remember.

Q. How much do you think?

A. I don't own them now, so I don't know.

Q. Can't you judge?

A. I've owned a dozen anchors.

Q. Were those the anchors that you had on board at the time of the "Celtic Chief" operations, these three or four anchors?

(Testimony of Frederick C. Miller.)

A. I had no other anchors except those that were on the ship, except this big anchor.

Q. That's what you are referring to when you say you had three or four?

A. No, I didn't refer to the ship's equipment. I owned anchors more or less aside from the ship's anchors. Every one of our boats have two anchors aside from those in the yard.

Q. You think that anchor was worth \$2,000.00?

A. I think it was worth \$2,000.00.

Q. Do you know the value of that anchor was fixed at when you bought it? A. Yes.

Q. How much?

A. I think, if I remember right, Medcalfe told me it was worth—

Q. I'm asking you what the value was fixed at for the purpose of sale.

A. No, I do not. [1779—946].

Q. Who sold it to you? A. Medcalfe.

Q. Did Hackfeld & Co. have anything to do with that?

A. Medcalfe's business went through Hackfeld & Co.

Q. And the money was paid to Hackfeld & Co. by you?

A. Medcalfe owed me a bill in the neighborhood of \$4,400 or \$4,800, and we paid it off this way.

Q. The Miller Salvage books will show? A. No.

Q. You had no books.

A. There is no record of that transaction.

Q. Why not?

A. I think it was before the incorporation of the

(Testimony of Frederick C. Miller.)

Miller Salvage Co.

Q. But that transaction was handled through Hackfeld & Co., was it not?

A. Not as far as I was concerned. I settled up with Captain Medcalfe.

Q. Who else was there? A. Klebahn.

Q. Mr. Kelbahn knew, did he not, about that transaction of that anchor and those tackles?

A. I don't think he did.

Q. He did not? A. No.

Q. The only man who knows anything of that is out of the Territory? Captain Medcalfe?

A. Captain Medcalfe.

Q. And he is in San Francisco?

A. San Francisco.

Q. And you're the only one in the Territory who knows what was paid to Medcalfe for your anchor and tackle? A. As far as I know.

Q. What else was there besides that anchor?

A. Well, hawsers.

Q. How many?

A. I don't recollect how many.

Q. Don't you know?

A. No, I can't remember how many. Quite a number of them.

Q. Five or six dozen hawsers? [1780—947]

A. Oh, no.

Q. How many then?

A. I should say four or five.

Q. What were the sizes?

A. They ran all the way from an inch and a half to four inches.

(Testimony of Frederick C. Miller.)

Q. What were they? A. Wire hawsers.

Q. How long were they?

A. They ran in lengths, if I remember right, from three hundred to a thousand feet.

Q. That would be four or five wire hawsers anywhere from three hundred to a thousand feet long?

A. Yes.

Q. Those hawsers had been used, had they, in the "Manchuria" operations?

A. I understood they had.

Q. For several weeks? A. No.

Q. How long?

A. I'm only giving you from the best of my memory. I believe Medcalfe was working two or three weeks.

Q. And they laid there and they were used for that period of time?

A. Some of them were in use.

Q. Which ones were in use?

A. The one that I used on the "Celtic Chief" was the one that was used with the same anchor.

Q. How long was that?

A. The "Celtic Chief," the line on the "Celtic Chief," if I remember right, was 900 or 950.

Q. What is the price charged for that kind of a cable? A. I think I can tell you.

Q. Let's have it. A. I think I can.

Q. This is for a new cable. You're giving now a price, are you, for a new cable of that kind?

A. Exactly.

Q. All right; let's have what that kind of cable would cost.

(Testimony of Frederick C. Miller.)

A. A two and a quarter costs \$2.20 a foot, a two and a half costs \$2.75. [1781—948]

Q. Now, what other lines did you have?

A. From Medcalfe or on the "Celtic Chief"?

Q. From Medcalfe?

A. We had some inch and a half.

Q. How's that?

A. I bought four or five hawsers from him.

Q. What other lines did you have that you bought from him? A. That's all.

Q. That was all you received beside the anchor?

A. The anchors and those lines and I think a pair of blocks.

Q. What kind of blocks were they?

A. If I remember right, they were blocks for about five-inch lines.

Q. What's the value of those two blocks?

A. Possibly \$50.00 a piece.

Q. What is the value of the other three or four cables besides the big one?

A. Approximately a thousand dollars.

Q. A thousand dollars? A. Approximately.

Q. Now, what was the value of that big cable then in the condition that it then was if a new cable would be worth the amount that you have already testified to?

A. It was worth just the same, Mr. Olson, as a new cable would have been worth.

Q. What, \$2.25 a foot? A. \$2.50.

Q. Either \$2.20 or \$2.50? A. Yes.

Q. Which was it? Was it \$2.25?

A. I think it was.

(Testimony of Frederick C. Miller.)

Q. Then at \$2.20 and if it was nine hundred feet that would be \$1,818.00.

A. If that's what it figures up.

Q. And the other lines were worth a thousand?

A. Yes.

Q. It was \$1,980.00; I made a mistake.

A. If that's what it figures.

Q. At \$2.20 a foot? [1782—949] A. Yes.

Q. And the other lines are worth a thousand?

A. Approximately.

Q. That would make \$2,980.00 for the lines?

A. Yes.

Q. And the anchor you would figure at \$2,000.00 also? That would make that total figure about \$4,980.00? A. Yes.

Q. How did it come you got it for \$4,500.00?

A. Let me tell you, Mr. Olson, that business—

Q. You didn't pay \$4,500.00 you mean to say?

A. I didn't have no \$4,500.00.

Q. Did you pay \$4,500.00? A. I think I did.

Q. Do you swear you did?

A. I do, to the best of my knowledge and belief.

Q. Don't you know?

A. I don't know to a dollar.

Q. It was approximately that amount?

A. Approximately.

Q. Do you know there are other anchors?

A. No other like it.

Q. In San Francisco? A. Nor anywhere else.

Q. No such anchor? A. No.

Friday, August 25, 1911.

Q. I believe you testified, Captain Miller, on direct,

(Testimony of Frederick C. Miller.)

that the tackle, anchor-lines, and so forth, in fact all of the appliances which you had in use on the "Celtic Chief" while she was aground in December of 1909, outside and exclusive of your boats, your vessels, were worth, at that time, approximately \$12,-000.00? A. I did.

Q. That is your testimony, is it?

A. That's what I said; yes.

Q. You, of course, know, you must know what property you [1783—950] had in use in that way in order to give that valuation? A. Yes.

Q. Do you know what you had there in use?

A. Yes.

Q. And you have considered the various items that go to make up the appliances?

A. I have never figured it up. I can figure it up right now, if *you me* to.

Q. You had among those appliances this large anchor, did you not? A. Yes.

Q. What is the weight of that anchor?

A. It is said to be seven ton.

Q. Do you know that it was seven ton?

A. No, I did not.

Q. Captain Medcalfe called it seven ton?

A. He called it seven ton.

Q. You are sure he didn't call it a five ton or ten thousand pound anchor? A. I am sure of it.

Q. You're absolutely positive of that?

A. He never called it that to me.

Q. You really don't know whether it was seven ton or five tons? A. I wouldn't swear.

Q. It might just as well be five tons as seven tons

(Testimony of Frederick C. Miller.)

so far as you know?

A. No, because my own judgment of the anchor is that it weighs more than five tons.

Q. You had also this large two and a quarter-inch steel cable that you used?

A. Yes, either two and a quarter or two and a half.

Q. Now, what else did you have?

A. Twelve-inch manilla hawser.

Q. How long was that twelve-inch manilla hawser?

A. Fifty fathoms to the best of my knowledge.

Q. That is about how many feet?

A. That would be three hundred feet.

Q. New? A. Brand new.

Q. Where did you buy that?

A. From McCable, Hamilton, [1784—951] & Renney.

Q. At that time? A. No.

Q. How long before?

A. I think about a year before.

Q. It had not been in use in the meantime?

A. Never had been put in the water before.

Q. Now, then, will you state what else you had?

A. We had two blocks that belonged to our line leading from the anchor towards the ship. Two blocks, triple blocks.

Q. Two triple blocks? A. Two triple blocks.

Q. Were those the blocks that you purchased from Captain Medcalfe? A. No.

Q. They were not? A. They were not.

Q. Will you state what size those blocks were?

A. Blocks that would carry an eight-inch rope.

Q. They were eight-inch blocks? A. Yes.

(Testimony of Frederick C. Miller.)

Q. Where had you obtained those blocks?

A. Those blocks I think we purchased from the Inter-Island. I think they ordered them for me.

Q. When? A. I don't remember.

Q. Can you state approximately?

A. No; their books will show. That's before the Miller Salvage Co., were ever organized and that's the first time those blocks were ever used.

Q. It was sometime between 1904 and 1907?

A. I don't know.

Q. You know, do you not, Captain Miller, that you first came to the Islands in 1904? A. About 1904.

Q. Was it before 1904?

A. I came to the Islands in 1904.

Q. And you incorporated the Miller Salvage Company sometime in 1907? A. I think it was 1907.

Q. Then it was between those two dates that you bought those blocks from the Inter-Island.

A. Yes.

Q. What did you pay?

A. I don't remember, but [1785—952] my recollection is \$120.00.

Q. That is for two? A. For the two of them.

Q. And they had never been used until used out there, had they?

A. Never had a rope rove through them.

Q. What was their value in December, 1909?

A. Well, it was the same value as they were when I bought them because they had never been used.

Q. \$120.00.

A. About that. I'm giving you now approximate figures.

(Testimony of Frederick C. Miller.)

Q. That's what you regard as their value in estimating your equipment? A. No, sir, Mr. Olson.

Q. What value did you fix?

A. A value is what is useful for me at the time and not what I paid for them.

Q. You would regard them a thousand dollars?

A. They were worth that.

Q. Is that the way you fix this value?

A. Yes, on some of it.

Q. It's not the market value of the property that you take into consideration?

A. The market value of a thing is one thing and what it would be worth is another thing.

Q. I'm asking you a definite question.

A. What's the question?

Q. Did you value these appliances in the way that you have just suggested, namely, what you regarded as their value now, at that time? A. Yes.

Q. That's the way?

A. That's the way I value a thing.

Q. Kindly state what did you value these blocks at? A. I couldn't put any valuation on them.

Q. Didn't you fix some value on those blocks in estimating before?

A. No, I didn't. I have told you before I didn't itemize what I had. I'm [1786—953] willing to do it.

Q. Those blocks could be purchased for \$120.00?

A. No, sir, they cannot because those are special blocks.

Q. What can they be purchased for?

A. I don't believe they can be purchased in the market.

(Testimony of Frederick C. Miller.)

Q. What is that belief based upon?

A. That belief is based upon the fact that I got them made to order.

Q. Is \$200.00 a fair value, market value?

A. If you sold them at auction you might not get more than \$200.00. In my business they are worth a thousand.

Q. I'm asking what blocks of that kind can be purchased for.

A. I haven't bought any since I bought those.

Q. Will you kindly state what, according to your best recollection, what those blocks could be purchased for? A. At that time?

Q. Yes.

A. One pair of those could have been purchased—I I don't know if anyone else could have bought them as cheap as I did. I paid \$120.00.

Q. How much more would an ordinary person not having any special pull have to pay, the cost of them?

A. They charge you \$50.00 or \$60.00 more.

Q. Somewhere in the neighborhood of \$200.00?

A. Somewhere in the neighborhood of \$200.00.

Q. Or \$170.00?

A. Somewhere in the neighborhood of \$200.00.

Q. What other appliances did you have?

A. We had a coil of seven-inch manilla rope.

Q. Was it a new coil? A. Brand new.

Q. How many feet?

A. A coil of manilla runs in the neighborhood of one hundred and twenty fathom.

Q. Or about? A. About seven hundred feet.

Q. Where had you purchased that?

(Testimony of Frederick C. Miller.)

A. I don't remember but I [1787—954] think at the Inter-Island Ship Chandlery.

Q. What was the value of that seven inch, what was the market value? What could a seven-inch line like that be purchased for at that time?

A. I don't know.

Q. You have no opinion?

A. I have no opinion just now.

Q. Have you no cordage tables now?

A. I haven't the cordage tables.

Q. When did you buy that line?

A. I can't tell you that. Don't remember. We carry in stock two or three coils of that sort of stock and we can't tell you when we bought them.

Q. How's that?

A. We always carry three or four coils of that sort of stock.

Q. Does the price of that kind of rope change or vary very much from year to year? A. No.

Q. It would be about the same in 1909 then as it is now? A. I think it's a little higher.

Q. And you have absolutely no opinion, no idea whatever? A. Yes, I have some idea.

Q. What a seven-inch manilla line, six hundred feet— A. I have some idea.

Q. How much?

A. It will run. At that time manilla rope ran about nine or ten cents a pound, I believe it is fourteen now.

Q. It doesn't make any difference what particular size the rope is, you pay for it by the pound?

A. The size does make some difference.

(Testimony of Frederick C. Miller.)

Q. How much, at that time, did you say that rope ran?

A. I'm giving you my idea, about, I think, ten cents a pound.

Q. What would be the weight of a six hundred foot coil of manilla rope, approximately?

A. I don't remember it.

Q. Have you no opinion whatever?

A. I can give you an opinion of the cost of the coil, but I can't give you an idea of the [1788—955] number of pounds.

Q. Can you give me approximately the cost of that line? A. Approximately?

Mr. WEAVER.—I object to this question as immaterial on the ground that it asks for six hundred pound and the testimony is one hundred and twenty feet.

Mr. OLSON.—I'll alter my question and I'll ask you what would be, what was the price at which that kind of a rope could be purchased at the ship chandlery in December, 1909. I'm speaking of the seven-inch manilla rope, one hundred and twenty—

A. To the best of my knowledge, ten cents a pound.

Q. And you don't know how many pounds?

A. I don't remember.

Q. You think it's about ten cents a pound?

A. I think that.

Q. Don't you know as a matter of fact, Captain Miller, that it takes about eight feet of a seven-inch manilla hawser to make one pound?

A. No, I don't remember just how many.

Q. Are you familiar with Tubb's Cordage Tables?

(Testimony of Frederick C. Miller.)

A. I've seen that.

Q. Is that a standard work?

A. Yes, I'll accept it as standard.

Q. I'll now refer you, Captain Miller, to Tubb's Cordage Tables showing the approximate weight, length, and size of manilla rope. I'll ask you to refer to that table. A. I have not got my glasses.

Q. I'll let your attorney help you out. Is that correct, Captain Miller, eight feet to the pound, seven-inch manilla hawser? A. That's correct.

Q. Are you sure about 125 fathoms to the coil?

A. I don't think. About 120.

Q. And about how many feet to the fathom?
[1789—956] A. Six foot.

Q. That would be 720 feet, then, to the coil?

A. Yes.

Q. Well, then, if it takes eight feet of that kind of rope to make a pound, it would be ninety pounds?

A. Oh, no, there is more than that.

Q. I'm asking you if this table is correct.

A. Oh, there must be something wrong about that. I know better than that.

Q. Is it eight pounds to the foot?

A. If it says that.

Mr. WEAVER.—As the attorney of the witness may I read the column following, the next column, 125 fathom in coil, the number of pounds is 1125.

A. That's more like it.

Mr. OLSON.—And you think ten cents a pound.

A. I think that would be a fair price.

Q. That would make \$112.50, would it not?

A. Yes, I told you \$120.00 that was the cost.

(Testimony of Frederick C. Miller.)

Q. Now, then, let's have the next item in this list of appliances. A. Another set of triple blocks.

Q. Two blocks?

A. Two blocks, a set is always two.

Q. How large were those blocks?

A. Those blocks were made to carry a six-inch line.

Q. Where did you get those blocks?

A. I don't remember whether that set was a set that I bought from Medcalfe or another set that I purchased from the Inter-Island.

Q. Did you have some blocks there that you had bought from Medcalfe? A. Yes.

Q. In use at the time?

A. I don't remember. We've got quite a number of those blocks and I don't [1790—957] remember just where I got them, but I purchased no other blocks except what I purchased from the Inter-Island, from Medcalfe, and also from Hackfeld I bought two, three, or four sets.

Q. Now, then, Captain, don't you sometimes figure the sizes of blocks by inches?

A. That's the way they're figured as a rule.

Q. How many inches were those blocks that you referred to first?

A. I don't recall now the size. I had Captain Campbell write to Pittsburg and have those blocks made to order.

Q. What was the size?

A. I think they were twenty-four inch.

Q. What would then be the size of the second set?

A. If the first was twenty-four, the second would probably be twenty-two.

(Testimony of Frederick C. Miller.)

Q. You are sure they were not eighteen?

A. No, I'm not sure but I don't think they were.
That may be the size of the third set.

Q. Then you had two blocks on your second tackle?

A. Yes.

Q. What you call your first luff tackle?

A. Yes.

Q. Will you state what you think the value of those blocks was in December, 1909, meaning by that what they could have been purchased for at that time?

A. They might have been purchased for \$100.00.

Q. \$100.00, that's what you think?

A. They might have been purchased for that.

Q. That would be the same now, would it?

A. About the same.

Q. Now, then, what is the next item in the list of your appliances?

A. Five-inch fall through them.

Q. That's a five-inch line? A. Five-inch line.

Q. Manilla hawser? [1791—958]

A. Manilla line.

Q. What was the length of that?

A. Same length.

Q. That was a coil? A. A coil.

Q. Now, what would be the weight of that coil?

A. That will give it in the same way.

Mr. WARREN.—I'd like to remark that the witness says 120 fathoms and these figures are based on 125 fathoms to a coil.

Mr. OLSON.—Captain Miller, I refer to Tubb's Cordage tables again and ask you if it is not correct that 5,200 pounds is the weight of a five-inch manilla

(Testimony of Frederick C. Miller.)

hawser? A. Yes.

Q. That is correct?

A. That's correct to the best of my knowledge.

Q. Could that be purchased at a lower rate than the other line?

A. I think not. I think the difference between five and seven would be about the same.

Q. About ten cents a pound?

A. About ten cents a pound may have been a little bit more. I don't think it any less.

Q. Captain, I wish to go back a moment to the original line that you testified to, namely, this seven-inch hawser that you used on the main tackle, and I again refer you to this table and I'll ask you if you didn't make a mistake there and if, as a matter of fact, it isn't true that a manilla line seven inches in circumference would weigh 1125 pounds?

A. That's what we stated.

Q. Now then, as to this second line, this five inches in diameter, I mean five inches in circumference, is not the weight of that 562 pounds, according to the table and not 5,200? It wouldn't be 5,000 pounds?

A. No, no, no. 562, yes.

Q. A few moments ago when you testified to a coil weighing 5,200 pounds, that meant a manilla line which was five inches in diameter? [1792—959]

A. Yes.

Q. But you had no line that was five inches in diameter? A. No.

Q. Then, at ten cents per pound, which I understand to be the rate at which that would sell, that would be \$62.20, would it not? A. Yes.

(Testimony of Frederick C. Miller.)

Q. That's for 125 fathoms? A. Yes.

Q. That, then, would be the rate at which that line could have been purchased at that time?

A. About that.

Q. Now, what was the next item in the list of your appliances? A. Another set of treble blocks.

Q. Were they treble blocks or double blocks?

A. Treble.

Q. What was the size of those blocks?

A. I don't remember the size, but they were intended to carry a four or five inch line, five-inch line.

Q. Weren't those what are called eighteen-inch blocks?

A. They probably would have been eighteen-inch.

Q. Are those the blocks you bought from Captain Medcalf?

A. I don't know whether I bought those blocks from Captain Medcalf or from the Inter-Island.

Q. You bought a set of blocks you said yesterday, from Captain Medcalf?

A. Yes, my best recollection is that the first line was the Medcalf blocks.

Q. They were good blocks? A. Most assuredly.

Q. The blocks you bought from Captain Medcalf were in first class shape? A. First class shape.

Q. Were they as good as new.

Q. What then, Captain Miller, would you say was the value of your blocks on the third tackle in December, 1909, meaning by that what they might have been purchased for at that time?

A. They might have been purchased from sixty to seventy dollars. [1793—960]

(Testimony of Frederick C. Miller.)

Q. Is that the price you regard at which they could have been purchased? A. Yes.

Recess.

Q. Now, you say you think they were eighteen-inch blocks?

A. They may have been. I know by the size of rope that they would reeve.

Q. And I think you testified that the amount they could be purchased at—at that time was sixty dollars? A. They might have been.

Q. Sixty or seventy dollars?

A. They might have been.

Q. Well, that is your best judgment now.

A. I'm giving you my best judgment.

Q. You think those are the blocks you bought from Medcalfe?

A. We're talking about the third set. I think the first luff was the ones.

Q. The first luff?

A. I know distinctly the first luff was the one I purchase from Inter-Island. The second luff, it's my impression, is the Medcalfe. The second luff.

Q. You didn't have a third luff?

A. Yes. I didn't have a third luff. I had the main tackle and one luff and one luff on that.

Q. That's the third purchase you're talking about?

A. Yes.

Q. In order that we may have the record absolutely clear, you bought the blocks that you used on your main tackle, from the Inter-Island? A. Yes.

Q. You bought the next blocks, you think, from Captain Medcalfe? A. I did.

(Testimony of Frederick C. Miller.)

Q. And the third blocks you bought from whom?

A. May have been the Inter-Island, may have been Hackfeld; I don't remember.

Q. And these blocks that you think you bought from Captain Medcalfe I think you testified were worth, at that time, meaning by that what they could have been purchased for, about \$100.00. [1794—961]

Q. And the blocks you bought from Captain Medcalf were as good as new?

A. The blocks I bought from Captain Medcalfe were as good as new.

Q. Now then, the next in the list of your appliances was what? You have told us about the blocks on the third purchase.

A. The two coils of rope that was not my own, borrowed from the Inter-Island.

Q. That's the line that you borrowed from the Inter-Island?

A. Borrowed from the "Celtic Chief."

Q. So that this three and a half inch manilla hawser that you used on the third purchase tackle did not belong to you?

A. The blocks were mine, but not the rope.

Q. I thought you testified that you had two short pieces of one and one-half inch steel cable that you used to re-enforce the twelve-inch manila hawser which connected your main wire, anchor to the first purchase tackle? A. I did.

Q. Whose lines were those?

A. Belonged to the "Celtic Chief."

Q. They did not belong to you?

(Testimony of Frederick C. Miller.)

A. They did not.

Q. Now, then, what is the next item, then, that belonged to you, in the list of your appliances after the blocks in the third purchase tackle.

A. The wire straps.

Q. What did they consist of?

A. They consisted of the wire straps and the couples. They consisted of inch and a half steel wire. They were spliced so as to make a long strap with a hardwood couple.

Q. How many of those inch and half steel wires are there in such a strap?

A. Cost about \$25.00 a piece.

Q. The straps cost about \$25.00? A. Yes.

Q. How many straps of those did you have?

A. We had four of them.

Q. In use of the "Celtic Chief"?

A. I don't know if they were all in use. I know that there were two of them in use. I know [1795—962] there were two and I think that's all we used.

Q. You think that two was all you used?

A. We carried out four and I think two and two cables was all we used.

Q. \$50.00 would cover the straps, the rate at which they could have been purchased at that time?

A. Yes.

Q. That includes the whole strap?

A. That includes the strap.

Q. What is the next item in the list of your appliances? A. The toggles.

Q. How do you spell that? A. T-o-g-g-l-e.

(Testimony of Frederick C. Miller.)

Q. How many toggles were there?

A. We carried out four toggles and four straps.

Q. How many straps did you have in use?

A. Have in use?

Q. How many toggles in use?

A. I think only two.

Q. What could those be purchased for at that time?

A. They are made to order, about twelve or fifteen dollars.

Q. Each? A. Yes.

Q. Two of them? That would make about twenty-five or thirty dollars? A. Yes.

Q. What was the next item?

A. The next item was a spare coil of rope that we used to run the main purchase from the foremast of the "Celtic Chief."

Q. What kind of a tackle was that?

A. That wasn't a tackle; a spare coil.

Q. Manilla hawser?

A. Manilla and then we had also a wire on that.

Q. Let's find out how much of that manilla hawser there was.

A. I can only give you approximately.

Q. How much at the utmost?

A. At the utmost wouldn't amount to much, probably twenty or thirty fathoms.

Q. At the utmost 180 feet? A. Oh, yes.

Q. Now, what was the circumference of that line?

A. If I remember right, that was a six-inch line.

Q. Six-inch line, 180 feet long? [1796—963]

A. Yes.

(Testimony of Frederick C. Miller.)

Q. That was a new rope?

A. All rope that we used there was brand new and none of it had been used before except that one I had obtained from Medcalfe.

Q. Now then, coming to this tackle, Captain Miller, these blocks on the tackle, a six-inch line, manilla hawser, having 125 fathoms to the coil would weight eight hundred pounds is that correct?

A. Yes, if that's what I stated in the table, that's correct.

Q. Well, then, thirty fathoms of manilla hawser, would be about one-quarter of a coil?

A. About one-quarter of a coil?

Q. Therefore, the weight of that would be one-quarter of 800 or 200? A. 200 pounds.

Q. That, you say, could be purchased at ten cents a pound? A. Ten cents a pound.

Q. That would be worth about \$20.00?

A. \$20.00.

Q. You spoke of another line.

A. I think that re-enforcing.

Q. Were they wire too? A. I'm not sure.

Q. How many wires?

A. I think that would be thirty fathoms.

Q. What kind of wire? A. Inch and a half.

Q. Steel wire? A. Steel wire.

Q. And what would be the value of that?

A. That would be worth about \$30.00 or \$40.00. Say approximately thirty or forty dollars.

Q. Thirty or forty? A. I should say that.

Q. Would it be more than thirty?

(Testimony of Frederick C. Miller.)

A. It might be forty. Thirty or forty would be fair.

Q. What other item did you have in the list of appliances out there? A. Surf line.

Q. A surf line? A. Yes. [1797—964]

Q. What did you use that surf line for?

A. Running to the anchor from the ship. We took her from the anchor to the "Celtic Chief" in order to haul the main hawser aboard.

Q. That was the only other item?

A. That's the only other item.

Q. How long is that surf line?

A. That's a full coil, 120 fathoms.

Q. What is the size of that line?

A. Four inch line.

Q. Four-inch, manilla hawser? A. Yes.

Q. Isn't that a part of the equipment of one of your boats? A. Them lines were.

Q. You didn't figure this then as a part of \$12,000.-00.

A. It's not part of the boat's equipment. It's a part of the salvage company's equipment.

Q. You wouldn't figure that as a part of the value of the boat? A. No.

Q. What's the—withdraw that. Referring again to Tubb's Cordage Table, a four-inch manilla hawser, a full coil of 125 fathoms of that would be 375 pounds, would it not, Captain Miller? A. Yes.

Q. And what rate could that be purchased at at that time? A. About ten cents.

Q. That would be \$27.50 for that line?

(Testimony of Frederick C. Miller.)

A. About that.

Q. What is the next item in the list of your appliances?

A. That was practically all of our appliances used outside of the boats.

Q. And that is what you have estimated at \$12,000.00? A. Yes.

Q. Now, what was the value of that big anchor that you used, at that time?

A. I figure that anchor was worth \$2,000.00.

Q. And you have also a steel wire?

A. Hawser. [1798—965]

Q. Hawser from the anchor to the tackle which was two and a quarter inches in diameter, and what did you figure the value of that line at?

A. I forget now. We figured the other day here.

Q. \$2.20 per lineal foot, did you not?

A. I think it was.

Q. And there were how many feet? Nine hundred?

A. Nine hundred feet to the best of my recollection.

Q. That would be approximately \$2,000.00?

A. That would be approximately \$2,000.00.

Q. And that makes up the entire list?

A. Exactly. One minute; I just happened to think of something. We had a buoy and wire hawser to the anchor.

Q. What kind of a buoy was that?

A. That buoy was a gasoline drum that had been sent to a blacksmith and had some bands put around it and I had it for a marking buoy.

(Testimony of Frederick C. Miller.)

Q. That drum was a drum that you had purchased gasoline in, was it not? A. Yes.

Q. Any empty one?

A. Well, it cost me \$11.00.

Q. Made up into a buoy?

A. And the blacksmith's work, if I remember right, was in the neighborhood of \$32.50.

Q. In addition? A. In addition.

Q. About \$43.50?

A. About \$43.50 for the buoy and on that buoy, if I remember right, was twenty fathom of five-eighths wire, steel.

Q. That would be 120 feet? A. 120 feet.

Q. What would be the value of that?

A. Of the buoy and the line all together you put down, let me see, say about \$65.00 or \$70.00.

Q. That includes the drum, the whole business?

A. The whole business.

Q. Now, have you completed the list of your appliances?

A. As near as I can remember. [1799—966]

Q. All right.

A. Now, excuse me one minute; that is what, as near as I can remember, what we actually used, but when we were out there we put on the "Makee," two suits, diving suits, a diver, and also two pumps.

Q. You didn't use them at all?

A. We didn't use them.

Q. You said you had two pumps?

A. Two sets of apparatus complete.

Q. What is the value of those two diving sets of apparatus?

(Testimony of Frederick C. Miller.)

A. Those cost me, as near as I can remember, \$896.00 landed here in Honolulu.

Q. \$896.00? A. Each.

Q. Where did you buy them?

A. I bought them at Boston.

Q. When did you buy them?

A. I bought them since I've been here. Quite a long time previous to that.

Q. Previous to what?

A. Previous to the "Celtic Chief."

Q. After the incorporation of the Salvage Company? A. I owned them before.

Q. Did you buy them direct or did you buy them through an agent?

A. I bought them direct and have the bills for those, I think.

Q. Will you produce them?

A. I will try to do so.

Q. How much did they cost you?

A. They cost me \$897.00 landed here. It cost so much in Boston and I had to pay insurance.

Q. Now, then, Captain Miller, I have added up the list of values that you have given of this list of appliances exclusive of the two sets of diving apparatus—

A. And the steam pumps? We had steam pumps aboard the "Makee."

Q. You had steam pumps in addition to the diving apparatus?

A. Yes. I think I stated that. [1800—967]

Q. What did you use them for?

A. We didn't use them. When we left the dock

(Testimony of Frederick C. Miller.)

we expected to find that ship bilged and we took out the diving apparatus and two steam pumps.

Q. What kind of pumps?

A. That was a twelve inch, direct acting centrifugal made by Lawrenceville Pump Works, Massachusetts.

Q. The first was what?

A. Twelve inch, direct acting centrifugal.

Q. And the second was what?

A. The second one was a twelve inch, Blake pump that Medcalfe had used. The only time it had been used. Medcalfe had used it out on the "Manchuria." We had three, the other one a Blake Wrecking pump. That was a twelve inch, direct acting Blake Wrecking centrifugal.

Q. Now, then, we'll take that big pump first. Where had you purchased that?

A. From the Blake people direct.

Q. Did you once sell that to Captain Medcalfe?

A. No, I didn't sell it.

Q. It was not used by Captain Medcalfe?

A. No, I didn't sell it.

Q. It was not used by Captain Medcalfe?

A. There were two Blake pumps.

Q. The wrecking pump, when did you buy that?

A. I sent east and bought it brand new.

Q. What did that cost you landed here?

A. I think it cost in the neighborhood of \$800.00.

Q. \$800.00 landed here?

A. That's the best of my recollection.

Q. You don't remember when you bought it?

A. No, I don't.

(Testimony of Frederick C. Miller.)

Q. How many years have you had it—to the best of your recollection?

A. To the best of my recollection I've had it about three years.

Q. You bought that since the Miller Salvage Co. was incorporated? [1801—968] A. I think so.

Q. Now, let's have the cost of the Blake pump.

A. I got that from Medcalfe.

Q. How much did you pay him for it?

A. I didn't know I paid him anything for it.

Q. What is the value of that kind of pump?

A. \$1,850.00, was the net price of that pump.

Q. Was it a new pump?

A. Brand new. I think he used it a little.

Q. Isn't it the fact, Captain Miller, that Captain Medcalfe sold you that pump?

A. I didn't know he did. I think he gave me that for expert services rendered him.

Q. Sure of that?

A. Well, I'm pretty positive of it.

Q. Didn't you pay him \$800.00 for that pump?

A. He may have figured at \$800.00.

Q. Are you prepared to say that he didn't sell it to you for \$800.00?

A. I am not prepared to say what was any price collected upon that pump.

Q. I'm asking you whether he sold that for \$800.00.

A. I don't think he did. I think he gave me that pump because he wanted that pump left here in Honolulu.

Q. Why did he give you that pump?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—I object to that, doesn't make any difference why he gave him that pump.

Mr. OLSON.—I'll withdraw the question. Did you ever buy any other pump from Captain Medcalfe than this big pump? A. No.

Q. That's enough to satisfy me for the time being. That value then is how much?

A. The value of that pump is \$1,850.00.

Q. And that was its value at the time you had it there at the "Celtic Chief"?

A. It was. [1802—969]

Q. Now then, the third pump.

A. The third pump was a ——— direct acting, twelve-inch pump.

Q. Where did you get that?

A. Direct from Massachusetts.

Q. And when?

A. Subsequent to the incorporation of the Miller Salvage Company.

Q. And how much did you pay for it?

A. I think we paid \$750.00, I'm not sure, but I think \$750 for that pump there, and then we paid the freight.

Q. How much did that amount to?

A. About \$800.00.

Q. Landed here? A. Landed here.

Q. Including freight and purchase price, \$800.00?

A. Prepaid.

Q. Now, then, that third pump?

A. That is the third pump.

Q. Where were these kept?

A. One was on deck, two of them down in the hold.

(Testimony of Frederick C. Miller.)

Q. Whose deck? A. "Makee's" deck.

Q. None of them were used at all?

A. None of them were used.

Q. Now, according to the figures that you have given, Captain Miller, the highest figures that you have given, the value of the appliances that you had in use on the "Celtic Chief," added up, amounts to \$4,766.20. Captain Miller, that's about right?

A. Well, if you've added up there I would say that was right.

Q. And when I made up the value of all the appliances of which you have spoken, including the pumps and diving apparatus, including all of the appliances, those which were in use and those which were not in use, the figure that I get, according to your testimony, is \$10,028. Where do you get the balance?

A. Right aboard the "Makee" [1803—970] there is \$500.00 more blocks and at least two or three thousand kept—

Q. Why didn't you say that there was this appliance?

A. That boat was equipped for anything that might occur, and part of her equipment—and the pumps were a part of her equipment.

Q. When you said a few moments ago when you gave me the values of these pumps that you had given me all—

Mr. MAGOON.—Object to that.

The COURT.—Objection overruled.

Q. Did you not say that you had given to me the entire list that you had finished?

A. Mr. Olson, I may have said that if the record

(Testimony of Frederick C. Miller.)

shows it, but I couldn't sit down now and give you an inventory of the "Makee" and what she's got, blacksmith tools.

Q. Are those included in the above valuation of the "Makee" that you have given?

A. No, they are not.

Q. You've not included that in the "Makee" in your value of \$1500.00?

A. The "Makee's" equipment and the salvage appliances used aboard her were two separate things.

Q. Did you include all of these appliances in your valuation of \$12,000.00?

A. Roughly, yes. Rough.

Q. Not all of them?

A. No; I told you roughly we had about \$12,000.00 worth of stuff aboard when we went out to the "Celtic Chief." That's what I meant to imply. We used whatever was necessary and whatever wasn't necessary we didn't use.

Q. Now, then, Captain Miller, the value of the appliances which you had that you used on the "Celtic Chief" operations and through those operations was approximately \$4,800.00? A. That's the cost.

Q. And the rest of these appliances you didn't use at all?

A. Didn't use except that I've told you. [1804—971]

Q. You didn't use them?

A. I told you that I did not use them.

Q. I think you testified yesterday, did you not, Captain, that this large anchor that you bought from Captain Medcalfe, the value of that fixed between

(Testimony of Frederick C. Miller.)

you and Captain Medcalfe was \$2,000.00? Is that correct?

A. I don't know what the anchor was set down for, but this is what Medcalfe told me, that that anchor was worth \$2,000.00.

Q. And that was the amount you agreed upon?

A. You won't let me tell you about, the truth about that Medcalfe business, Medcalfe and Captain Pillsbury rang up, they took me out of bed at twelve o'clock at night, and asked me what was the best method of pulling off the "Manchuria," and I was in constant consultation with them from that time until she came off, and when they had finished the work on the "Manchuria" he had certain appliances, and he said, "Captain, I'm going up and cannot be coming here to float ships. This is the second time this anchor has been here and I don't want to come down again. The people that I represent would like to have this pump and this anchor sold, kept here in Honolulu, so that we won't have to pack it back and forth. We'll give you a good opportunity to get them, obtain those for a good deal less than the cost, for a small, nominal sum." He said, "That anchor is worth \$2,000.00. The cost price of that pump is \$1850.00. I'm going to make a price on it so you can keep it here."

Q. That's what I want you to tell about, the price you paid, \$4,500. A. I don't know.

Q. Isn't that what you testified to?

A. I testified to an occurrence that occurred four or five years ago with the "Manchuria" that, as near as my recollection goes, I had a bill against him for

(Testimony of Frederick C. Miller.)

\$4,400.00 or \$4,800.00. I don't know just how it was settled. He made a liberal settlement with me and in that settlement he said, "There are reasons why I can't put this in as expert services, what [1805—972] you done on the 'Manchuria,' and I can't put this down as expert services, but I will fix it this way so you will get square; it will be just the same." And what the terms of settlement was, I don't remember now.

Q. You were paid \$1,800.00, I believe, on the 9th day of October, 1906, for services in connection with the "Manchuria," the "James Makee" having been used in that connection?

A. No, sir. I don't know what you're reading from. I don't know that I got \$1,800.00. He may have allowed me in the bill.

Q. Do you deny—

A. I deny using the "Makee" on the "Manchuria."

Q. Do you deny that through H. Hackfeld & Co., Ltd., you were paid in cash, \$1,800.00 for services in connection with the "Manchuria"?

A. Well, they may have paid me \$1,800.00, as I said. I don't say they did or they didn't. I know there was a settlement made. When you spoke of the "James Makee" I remembered perfectly well. I didn't have the "James Makee."

Q. You didn't have the "Makee" for twelve days picking up anchors?

A. That was after the "Manchuria" was floated.

Q. Picking up anchors. That was in connection with the "Manchuria" operation?

(Testimony of Frederick C. Miller.)

A. We did pick up anchors long after the "Manchuria" was afloat.

Mr. MAGOON.—I object.

Mr. OLSON.—I now offer to show—I offer to connect.

The COURT.—I'll allow the question.

A. What's the question, please?

Q. Then, as a matter of fact, that had nothing to do with the \$4,400.00 that you paid Captain Medcalfe for this anchor and gear and stuff that you bought?

A. I don't know whether it was or not. We did pick up [1806—973] anchors long after the "Manchuria" was floated and went away from here. The "James Makee" went out there and picked up some anchors. I don't remember what was paid for that.

Q. Now, then, in connection with the floating of the "Celtic Chief," of the "Manchuria"—

Mr. MAGOON.—I ask to have that portion of the answer with reference to the floating of the anchors, stricken out.

The COURT.—Motion overruled.

Q. Now, then, Captain Miller, I want to get definitely whether or not this \$1,800.00 that you were paid for the services of the "James Makee" formed a part of the purchase price which you paid to Mr. Medcalfe for this anchor and gear and so forth.

A. It may have been and may not. I do remember, or don't remember just now. That occurred over three or four years ago. Just how that was settled up.

Q. If the books of H. Hackfeld & Co. of Honolulu

(Testimony of Frederick C. Miller.)

show that you were paid that amount in cash on the 9th day of October, 1906, for the services of the "James Makee," as I have heretofore stated, then are you prepared to say still that this amount may have been included in the amount that was paid to Captain Medcalfe for that anchor and gear?

Mr. MAGOON.—Now, I object to the question, your Honor, because it's wholly inadmissible, based upon hypothesis that if the books of Hackfeld & Co. show this then what do you say?

The COURT.—I'll allow the question.

A. No, I wouldn't believe Hackfeld books in regards to my transaction with Medcalfe and Company.

Q. Are you prepared to say that if their books show that that was paid, \$1,800.00—

A. I would be prepared to say I didn't get it.

Q. Are you—you would say you didn't receive it?

A. I wouldn't say that I didn't receive it, but I would not take their books. [1807—974]

Q. Will you say whether you did or did not receive it? Will you bring in your books?

A. No, I have none on that.

Q. You have not? A. I have none on that.

Q. Now, then, Captain Miller, I think you said that you paid in this settlement with Captain Medcalfe, \$4,400.00 according to your best recollection, for the anchor, the big wire cable, and two or three other steel cables. Now, I want to ask you, Captain Miller, if it isn't the fact that in this transaction between you and Captain Medcalfe you agreed upon the sum of \$650.00 as the price of the anchor which you pur-

(Testimony of Frederick C. Miller.)

chased from him in that transaction?

A. He may have figured that. I've explained it easily. In whatever figures he rendered Hackfeld was one thing and our personal deal another, that was another. I tried to make clear to you, Mr. Olson, how it was that those pumps and that anchor and those steel hawsers was given to me, what he estimated them and I estimated them to be worth.

Q. I'm asking you for a definite statement of fact, whether that was not the figure you figured that anchor at with Captain Medcalfe?

A. I don't remember the estimate. It's absurd on the face of *the fact* of it because the anchor is worth more than that for old iron. It's worth more than \$650.00 to cut up in the rolling-mill.

Q. You are prepared to swear that's so?

A. To the best of my knowledge and belief.

Q. You are basing that on the knowledge of that anchor?

A. I'm basing that on the knowledge of anchors.

Q. You state it is worth that for old iron. Is that an exaggeration or is that the fact?

A. That's an exaggeration. It is worth \$18.00.

Q. \$18.00 a ton for scrap iron?

A. For scrap iron. [1808—975]

Q. In other words, it is worth \$128.00 for scrap iron? A. That's right.

Q. Didn't you agree in the—didn't you agree with Captain Medcalfe in this statement that you made with him that that anchor was a 10,000-pound anchor?

A. I did not. I don't remember of doing it.

(Testimony of Frederick C. Miller.)

Q. You might have? A. I might have.

Q. You said Captain Medcalfe told you it was a seven-ton anchor?

A. He spoke of it as a seven-ton anchor.

Q. In the statement between you and Captain Medcalfe, you agreed upon that that was a ten thousand-pound anchor?

Mr. MAGOON.—I object.

The COURT.—The Court agrees that they, it appears in record in the statement, it might have been only ten thousand pounds.

Q. Isn't it the fact that in this statement with Captain Medcalfe you agreed upon as to the price of all of the wire cable that you purchased from him, in that statement agreed upon the sum of \$875.00 for the whole, including this big 2¼ inch steel hawser and the other steel cables that you have referred to, \$875.00?

A. I don't know what—I don't remember what. I never saw any papers.

Q. You didn't?

A. No, nothing. I don't know what you are reading from. I never saw any papers. Our business was directly between with Captain Medcalfe and Captain Pillsbury. We represented the British Lloyds and there was no papers or anything of that sort.

Q. They made that settlement without a statement? A. That's the fact.

Q. You are prepared to swear under oath?

A. Yes.

Q. As a witness in this case? A. Yes.

(Testimony of Frederick C. Miller.)

Q. That H. Hackfeld & Company did not deliver to you on the [1809—976] 9th day of October, 1906, voucher signed by them covering this transaction showing that that anchor was agreed upon by you and J. Medcalfe at the sum of \$650.00 and various steel wires, all of them, \$875.00. Do you deny that they did? A. No, I—

Q. Do you deny that they ever delivered to you a voucher upon the settlement of that account?

A. I don't; no, sir. I don't remember the facts of the matter. That Captain and Pillsbury were talking and Klabaum came out and Medcalfe and I finished our business and our settlement with that. One second; he wanted to get the office records of the Hackfeld Co. It appears that Hackfeld was concerned in the business and Klabaum came back and brought something to show the balance. It may have been a voucher and I may have signed it.

Q. You remember that Mr. Klabaum brought it to you?

A. I remember he came back with something, said that they had to have something in the office to show that part of the transaction.

Q. Kindly produce that voucher.

A. I have not got it.

Q. What did you do with it?

A. I don't know whether it's a voucher or not.

Q. It's a voucher showing the payment by you and the amount paid?

A. That they signed or I signed?

Q. They signed.

A. If that is it, I probably looked it over and threw it away.

(Testimony of Frederick C. Miller.)

Q. You don't have it? A. It may be—

Q. Are you sure that you threw it away?

A. I'm not.

Q. Will you kindly examine your papers and ascertain? A. Sure! I'll have the boys in the office—

Q. I request you to make that search. [1810—977]

A. I'll do that.

Q. Now, you purchased many other things in addition to those anchors and cables at the same time from Mr. Captain Medcalfe; some other things, didn't you?

A. I think there was an additional purchase of a steel hawser that I never used and sold to the Transport "Sheridan."

Q. Didn't you buy this big pump?

A. Sure! I told you that.

Q. \$800.00?

A. I didn't say it was \$800.00; I don't remember.

Q. Was it?

A. I told you what the price of it was. I don't know what the account had for settlement. I keep reiterating to you the price of those things so much.

Q. You never said upon your examination some of the things were for services rendered, expert services rendered? A. No, I did not.

Mr. MAGOON.—I ask that be stricken out; it has been asked and answered.

Q. Didn't you say a few moments ago that \$800.00 was the price of that pump?

A. No, I don't think I did. I told you that the entire price of that pump was \$1,850.00. I don't remember what it was put down in the account for.

(Testimony of Frederick C. Miller.)

Maybe \$800.00. It may have been \$200.00. He may have put it down.

Q. Didn't you say he gave you that pump?

A. No, he may have given it. My impression is that the pump, he didn't—didn't enter into the calculations at all. That is my impression.

Q. And you say it's down for \$800.00?

A. I'm not saying anything of the sort.

Q. You bought those two wooden blocks at the same time, didn't you? A. There were two blocks.

Q. These two treble blocks that you have already testified [1811—978] to?

A. I've testified that there was a pair of wooden blocks to the best of my recollection that was among that salvage gear.

Q. Didn't you pay him \$36.00 at that time for those blocks?

A. I don't remember whether I paid him anything.

Q. Didn't you also buy a rigging screw and some bundles of oakum and some blocks and a wire-cutter?

A. I don't remember whether I bought them or he gave them to me. There was a lot of oakum and a lot of rigging screws and wire-cutters and things of that sort.

Q. Now, then, Captain Miller, isn't it true that these items that I've spoken of, these other items, the wire-cutter, the blocks, the oakum, the rigging screw, in your settlement, were figured at the sum of \$127.50? A. I don't know that it was.

Q. Isn't it the fact?

A. I don't want to say that's the fact.

Mr. MAGOON.—I object to that.

(Testimony of Frederick C. Miller.)

The COURT.—I think the examination is proper.

Q. Have you no idea?

A. I have no idea what price he put upon that oakum or wire-cutter.

Q. Now, then, Captain Miller, isn't it the fact that, aside from the question of whether or not you purchased these various things at a low price or a high price and the reasons for the price that was placed upon them, isn't it the fact that the actual price agreed upon between you and Captain Medcalfe for these various articles and the price at which the settlement was made for those articles was exactly \$3,413.50?

A. It may have been or may not have been.

Q. Have you no recollection?

A. I have no recollection. My recollection is that the cost of those things was \$4,400.00. He may have made out a slip of paper making it \$2,400.00. If you state it is so and give me the difference between \$2,400.00 [1812—979] and \$4,400.00 for my expert services on the "Manchuria."

Q. Then this \$1,800.00 for the services of the "Makee" didn't enter into this transaction at all?

A. The services of what?

Q. What you were paid for the services of the "Makee."

A. I don't know whether or not it did or not; I don't remember. It's a transaction that occurred at least four years ago.

Q. Isn't it the fact that you said the bill for the services of the "James Makee" and the bill for the purchase price of this anchor and appliances that

(Testimony of Frederick C. Miller.)

you purchased from Medcalfe on the same day, namely, October 9, 1906?

A. That may be—yes, I do remember that. We made one complete settlement on that day.

Q. And the whole of that figure amounts to about \$4,400.00 for the “Makee”?

A. It might and might not.

Q. Might that not be, as a matter of fact, the figure that you had in mind, namely, the price that you paid for those appliances and the figure for the services of the “James Makee,” making a total of \$4,400.00? Isn’t that what you had in mind?

A. He told me he was going to help me for helping him with the “Manchuria” and I aided him materially.

Q. And you don’t know what the account was?

A. I don’t know. I know Medcalfe sent for me and took me out of bed twelve o’clock at night, and I think I was there until three o’clock in the morning, and every time he came from the “Manchuria” he sent for me, he said that he thought I understood it. He would come to me. And other services of that kind. And “we recognize you have been of use to us and we’ll treat you right, and so on.” What he fixed in his books or what Hackfeld dug up I don’t know.

Q. You accepted their voucher showing this settlement? You knew about it?

A. Sure! Medcalfe said, “There [1813—980] are those things. I’m going to put down \$2,400.00. They are worth \$4,400.00. We’ll fix that up and sign the vouchers so that our vouchers will be right.

(Testimony of Frederick C. Miller.)

Q. And you still say that that anchor was worth \$2,000.00?

Mr. MAGOON.—I object to that, it's answered.

A. I said that anchor was worth to me on the "Celtic Chief" \$12,000.00.

Q. That's the way you figure its value?

A. Sure! The "Mauna Loa," if I put her up at auction she'd sell for about \$125,000.00. She is worth to the Inter-Island Co., \$225,000.00. That anchor would not be worth nothing if it isn't worth \$17,000.00.

Q. That's the way you figure?

A. I wouldn't sell it to-day for \$2,000.00 cash.

Q. Don't you know that that big anchor when you received it after the "Manchuria" was afloat—when you purchased that line from Captain Medcalfe it was pretty rusty?

A. No, sir, it wasn't, if I remember. It's never rusty and, by golly, the Hawaiian Dredging Co. got the same anchor-line at \$25.00—

Q. It's not rusty now?

A. It was not rusted by us before the Hawaiian Dredging Co. bought it.

Q. It would not be rusty after you got through using it at the "Celtic Chief" operations?

A. As soon as we took it from the Hackfeld wharf we dipped it in the oil-tank, oil-tanks, and kept them there.

Q. Did you sell those big blocks to the Hawaiian Dredging Company?

A. The same blocks I used on the "Celtic Chief" I've got.

(Testimony of Frederick C. Miller.)

Q. All of them?

A. I've sold sets of blocks since and if I haven't got them I've disposed of them.

Q. We're interested only in the appliances you had in use there.

A. I'd be almost willing to say that the same blocks we got now aboard of the "James Makee."

Q. Have you the largest ones that you had in use?
[1814—981]

A. Yes, I've got the largest ones that I had in use. I've got them right now aboard the ship.

Q. Can you run an inch rope through these big blocks? A. Not only one, but four.

Q. An eight inch?

A. An eight-inch rope, it was sold to me for a seven and I've run an eight inch through it. But you don't understand me. I don't say to you that I had an eight inch on the "Celtic Chief." I told you it was a seven inch, stated distinctly it was a seven-inch rope, but we put an eight inch through it.

Q. The "Concord" has an anchor, has it?

A. Two.

Q. Two anchors? A. Yes.

Q. How large are those anchors?

A. "Concord's" anchors are about—I'm giving you from memory, Mr. Olson—I think about five or six hundred pounds each.

Q. Perfectly amply for the "Concord"? Quite ample for the "Concord"?

A. Ample for the "Concord."

Q. The "James Makee" has anchors on her?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. How many? A. Two.

Q. What are the sizes of those?

A. Yes, she has two. That's another one I forgot to tell you. She had some anchors aboard her; then, too, we took additional anchors out, but she has two of her own.

Q. How large are those?

A. "Makee's" anchors are about equal to them two, two thousand and the other about twenty-five hundred.

Q. And they are quite ample to hold the "James Makee." A. They are able.

Q. What about the "Kaimiloa"? A. Nothing.

Q. But you had other anchors on the "James Makee" at that time? A. Yes. [1815—982]

Q. Which could have been transferred to the "Kaimiloa"? A. No.

Q. Why not?

A. Because when the "Kaimiloa" was alongside the "Celtic Chief" the "James Makee" was ashore.

Q. But those anchors could have been transferred?

A. Oh, they could have picked up anchors in town and put them aboard the "Kaimiloa."

Q. How were the anchors of the "Makee" and the "Concord" attached, by chains? A. By chains.

Q. Strong anchor chains? A. Yes.

Q. Perfectly ample to hold without any difficulty?

A. Yes.

Q. And there was a coral bend in a sandy bottom?

A. Yes.

Q. Made a good anchoring bottom, did it not?

A. Yes.

(Testimony of Frederick C. Miller.)

Q. Now, Captain Miller, did you have those anchors out at the time that you were loading cargo there? A. No.

A. You could not, at that time? A. No.

Q. Why not?

A. I told you that we broke the windlass on the "Concord," I told you we busted that.

Mr. WEAVER.—Q. When?

A. That I didn't tell you.

Judge WEAVER.—Q. I'm asking you when you broke the windlass of the "Concord."

A. When we lay alongside the "Celtic Chief."

Q. The windlass was in working condition when you were alongside?

A. When we went out alongside the "Celtic Chief," the windlass was in working condition and her anchors.

Q. How often did you go alongside the "Celtic Chief" with the "Concord"? A. Once only.
[1816—983]

Q. So when you came alongside the "Celtic Chief" you could have laid anchors from the "Concord"?

A. We could have anchored alongside there.

Q. You could have anchored with the "Makee" also when you were alongside with her?

A. Oh, yes.

Q. And you could have transferred anchors from the "Makee" to the "Kaimiloa"?

A. I could have done that, but she has no windlass.

Q. You could have dropped those anchors with the appliances on the "James Makee" and run a line aboard? A. We might have done that.

(Testimony of Frederick C. Miller.)

Q. You had ample lines for that purpose?

A. We had ample wires aboard the "James Mackee."

Q. Now, then, Captain Miller, if you had laid your anchors in that fashion, wouldn't that have prevented the danger and risk that you said there was?

A. Sure it would, but we couldn't have got the cargo out.

Q. Why couldn't you?

A. When you lay outside you can't anchor to a ship and get cargo off from her.

Q. She could have been anchored alongside of the "Celtic Chief," couldn't she, and could have had anchors out from this vessel?

A. We could have done it.

Q. Yes, and that would have prevented you from going ashore if you had anchors out? A. Yes.

Q. But you didn't regard that as expedient in order to do, in order to save your vessels from this risk?

A. I wouldn't do it. I wouldn't take the risk to them vessels. Had we anchored them alongside they would have nothing at all; they wouldn't have got their anchor out.

Q. You had a windlass.

A. The windlass broke on one of them, the other has no windlass.

Q. You could have let go?

A. Yes, we could, and she would have been on the reef.

Q. It would have helped you if you had anchors out ahead or astern?

(Testimony of Frederick C. Miller.)

A. But we couldn't have got [1817—984] the cargo out.

Q. Why not?

A. Because it was necessary for us to lay right alongside the "Celtic Chief" with a small space between the "Celtic Chief" and our boats.

Q. Can't you lay your anchors out ahead or astern?

A. Yes.

Q. What difference does it make—what difference whether you lay anchors or not. Didn't occur to you to do it? A. Did occur to us to do it.

Q. Powerful swell running on Monday?

A. There was a big swell.

Q. And it was exceedingly dangerous?

A. If we hadn't had any lines.

Q. But you could have laid your anchors?

A. If we started to lay our anchors out we wouldn't get our anchors.

Q. Why not?

A. You can't ——— a ship in a swell like that in five minutes.

Q. How long would it take you? A. Depends.

Q. How long would it take you to lay those anchors?

A. I might *may* take two hours, might have taken six.

Q. Might have taken six hours? A. Yes.

Q. Why?

A. It took us that *same* in the "Makee" all day to get the big anchor up.

Q. How large is that anchor as compared with the anchors of the "James Makee"?

(Testimony of Frederick C. Miller.)

Mr. MAGOON.—Hasn't he given the size of that answer?

Q. Answer the question, please. What is the weight of that big anchor, that is, that one anchor of the "James Makee"?

A. There's hardly any comparison.

Q. And there wouldn't be any comparison in the amount of time required or it would be necessary to lay that anchor of [1818—985] the "James Makee," would there? A. No.

Q. You anchored the "Makee" Tuesday night, didn't you? A. Yes.

Q. What with?

Mr. MAGOON.—I object to it.

A. If I remember right, it was with the big anchor. I don't know. My impression is we dropped both the ships' anchor. I know we dropped the big one and I think we dropped the ship's anchor. We had to let go on the "Makee" with the big anchor for the "Celtic Chief," and that's the reason I thought we dropped the second one.

Q. How long did it take you, if you did drop the anchor of the "James Makee," to drop the anchor that night?

A. That night it was perfectly clear; we had nothing in our way. We dropped it in about five minutes. You must understand, we were not mooring alongside of any ship; we was mooring out clear with plenty of sea.

Q. You had a good deal of labor on board these vessels? A. Yes.

Q. A great many men. A. A great many men.

(Testimony of Frederick C. Miller.)

Q. At the time that your vessels were alongside of the "Celtic Chief," other vessels were towing on the "Celtic Chief" at the same time, were they not?

A. Yes.

Q. If the "Celtic Chief" had gone afloat, had come afloat, these boats were powerful enough to tow her off? A. No, because they couldn't keep her there,

Q. If she were afloat?

A. If the "Celtic Chief" were afloat?

Q. If she had become buoyant at any time, were those towing steamers, would they, could they, have taken her out to deep water?

A. If she had become buoyant they would have taken her out to deep water.

Q. And it was because she was hard aground that they couldn't hold her; is that right?

A. Yes. [1819—986]

Q. The breakers were large? A. Yes.

Q. All day Monday and Tuesday?

A. All day Monday and Tuesday. The breakers was not so very, very still.

Q. Why did you add to the danger of the "Celtic Chief" by lashing your boats alongside?

A. Why did I?

Q. Why did you add to the danger?

A. The salvage operations up to the time we laid our anchor was *contary* to my own good judgment.

Q. I'm asking you why did the lashing of your boats to the "Celtic Chief" add to her danger? I'm asking you the reason why there was any danger, any additional danger to the "Celtic Chief" from the fact that the boats were lashed alongside of here?

(Testimony of Frederick C. Miller.)

A. That there was danger to the "Celtic Chief"?

Q. What was the additional danger?

A. I don't remember testifying to it before, but I'll tell you here now. Every swell would come in would not only lift the "Celtic Chief" in shore, but the more boats you tied to the "Celtic Chief"—I'm telling you this, use it if you like to my prejudice—the more you enhance her going in because it presents that much more of a side to the swell of the ocean.

Q. The fact of the parting of the lines is proof of that? A. Correct.

Q. If you had had these anchors out that you say you could not have laid from your own vessel, that would not only overcome that tendency, but it would also have helped to keep the "Celtic Chief" from going broadside? A. Quite right you are.

Q. And yet you did not lay those anchors?

A. I did not; no. It is proper to ask me why.

Q. Let us have the reason why. [1820—987]

A. The orders from the time that I first went out to the "Celtic Chief" until the time that I left her, we were under Captain Henry's orders directly, and I did what he told us to do, even after I had advised him not to do it. It was his orders to bring those lighters there and put them alongside the ship. It was his orders to get as much of the cargo as we can and all the men possible, and get the cargo out, and I told him that I thought it was wrong; if you want to lose your ship, that *was to* do it.

Q. You told him that originally on Monday morning? A. I told him that Monday morning.

Q. When you came out?

(Testimony of Frederick C. Miller.)

A. Not when I first got on board the ship, but before I went out.

Recess.

Q. Did you, Captain Miller, at the time that you told Captain Henry that the way to lose his ship was to lighten her in the way that he wanted it done—I mean the lightening. The “Intrepid” and the “Huki Huki” both had lines on the “Celtic Chief” at the time? A. Yes.

Q. Why did you tell him, then, that you did not approve of the idea of discharging cargo when the “Intrepid” and the “Huki Huki” both had lines on board the “Celtic Chief” and were endeavoring not only to tow her but to hold her?

A. Because I was endeavoring to give him the benefit of my best judgment and best experience.

Q. And that was what?

A. And that was that before ever a ship is lightened of its cargo something stable should be fastened to her seaward, to hold her from going further on the beach.

Q. Weren't the “Intrepid” and the “Huki Huki” towing as they did upon the “Celtic Chief” for that purpose? A. They did not.

Q. Yes. Why?

A. Because every surge that [1821—988] went towards the beach took with them the “Huki Huki” and the “Intrepid” likewise.

Q. So that you did not regard the “Intrepid” and the “Huki Huki” as sufficient to prevent the “Celtic Chief” going further aground? A. I didn't.

Q. You told the captain that?

(Testimony of Frederick C. Miller.)

A. I said, "What's going to hold you?" He said, "There's the 'Intrepid' and there's the 'Huki Huki.'" And I said, "Pulling for nothing."

Q. And that was your judgment at the time?

A. Yes.

Q. And still is your judgment?

A. And still is now.

Q. There was no question about that in your mind at that time? A. Absolutely none then.

Q. Now, then, as I understand it, in your opinion the lightering of cargo from the "Celtic Chief" on Monday, instead of aiding, assisting, or salving the "Celtic Chief," had exactly the opposite tendency?

A. Exactly.

Q. It had the tendency to put her farther ashore?

A. It did.

Q. And injure her more?

A. It did.

Q. All the lightering that was done then, up to the time, up to the Wednesday noon, at least, had that tendency, a tendency to injure the "Celtic Chief" further and was detrimental to her?

A. Up to Tuesday morning or up to the time the "Intrepid" was reinforced by the "Inter-Island boats it certainly had, because the "Intrepid" nor the "Huki Huki," never could have held that ship from going on the beach, but when the Inter-Island boats came, and if I remember right, they came Monday afternoon; they kept her from going on the beach.

[1822—989]

Q. Didn't you say she went further ashore from Monday night to Tuesday morning?

(Testimony of Frederick C. Miller.)

A. A little more.

Q. So that the Inter-Island boats did not prevent her from going farther inshore?

A. They surely could have stopped her more than what the "Intrepid" and "Huki Huki" could.

Q. Exerting more power they would stand a better chance? A. That's it exactly.

Q. But even so, you didn't regard them as sufficient for the purpose, did you? You still regarded an anchor was a stable object, first necessary, and that lightering under any other conditions would be detrimental? A. I do.

Q. And you did at that time?

A. And I did at that time.

Q. You did no lightering, did you, on Tuesday, of cargo from the "Celtic Chief" from the time that you got your anchor line aboard the "Celtic Chief" until after you got your anchor attached?

A. No, sir.

Q. All your lightering was done before that time?

A. Yes.

Q. You've been in the salvage business for a good many years? A. Off and on; yes.

Q. You've had how long?

A. I had probably outside of my experience in the Hawaiian Islands, about seven years' experience in salvage work.

Q. And where was that experience?

A. On the Atlantic Coast, in the *Bohemias* and on the coast of Cuba.

Q. Does that mean that you had a good deal of actual experience during that time?

(Testimony of Frederick C. Miller.)

A. Actual salvage work.

Q. That concerned one company? A. No.

Q. What was the company?

A. I worked for myself and worked for the American Salvage Company, New York. [1823—990]

Q. How long were you in salvage business on your own account on the Atlantic?

A. About five years.

Q. And you had a good deal of business during that time?

A. I've had a good many ships to work on.

Q. You're quite familiar with salvage work and salvage duties and customs and that sort of thing?

A. I am.

Q. And you've had some experience in Hawaii?

A. I've had some little here.

Q. You used the expression, Captain Miller, that you told Captain Henry that it was suicidal to lighten here under the conditions without having an anchor out?

A. Yes.

Q. Did you tell him that on Monday morning, also?

A. I don't remember that I used that word "Monday morning," but we had some words when we left the boats, and he said he wanted to get the cargo out as soon as possible, and I said, "What are you talking about? It is suicidal for you to lighten her this way."

Q. But you had conversation of that character both Monday morning and also later on when you went back ashore on Tuesday?

A. Yes; I told him Monday morning that the only

(Testimony of Frederick C. Miller.)

way to take that ship off was to get an anchor down first and hold her and then lighten her.

Q. Just what time was it that you first went down in the cabin, Captain, on Wednesday night?

A. As near as I can remember, it was somewhere about eight or nine o'clock.

Q. Eight or nine o'clock?

A. Yes, somewhere about that time.

Q. And it was somewhat prior to that time, wasn't it, that you took this observation according to the range lights and observed that the "Celtic Chief" had come three or four feet as you now judge it?

A. I think not. I'm not quite positive. We was continually taking the bearings of that ship to see what she was doing, but I'm not quite positive [1824—991] whether she had started before we went down in the cabin to take the lunch, whether it was before we had the lunch or during the lunch time that I came out on deck and noticed it.

Q. What is your best judgment as to the first time that you observed that she was coming somewhat?

A. She didn't come very much.

Q. I know, but you observed she had come three or four feet, I believe?

A. Yes, my best judgment, my best judgment, Mr. Olson, is that we went down to partake of that lunch but before she had started. That's my best judgment.

Q. Before what? A. Before she had started.

Q. Before she had started to come?

A. Yes, I think that lunch came aboard the ship and the captain asked me down before she come.

(Testimony of Frederick C. Miller.)

That's my best judgment.

Q. Now, I'll ask you do you know the time, what time of day or the night was it, according to your best judgment?

A. The best of my judgment is about somewhere between nine and ten o'clock.

Q. Somewhere between nine and ten o'clock?

A. Yes, I think.

Q. Do you remember what time of night it was that the "Celtic Chief" came off?

A. Yes, about—

Q. Can you state what time it was?

A. Shortly after eleven o'clock.

Q. Isn't it a fact that she came off at twelve-twenty?

A. No, sir; at ten minutes past twelve that ship was safe; the "Arcona" was towing her.

Q. And she must have been at least two miles from the shore at ten minutes after twelve?

A. At ten minutes past twelve.

Q. Did you look at your watch when she came off?

A. Captain Macaulay looked at his and I looked at mine.

Q. What time according to your time?

A. When she came off?

Q. When she came off.

A. I'm saying a little after eleven o'clock, but I remember that ten minutes past twelve perfectly well. [1825—992]

Q. You are positive that she came off at least before ten minutes after twelve?

A. I am positive of that fact.

(Testimony of Frederick C. Miller.)

Q. When you say shortly after eleven, do you mean to say that it was as much as an hour before ten minutes after twelve? A. That she came off?

Q. Yes.

A. To the best of my judgment, Mr. Olson, that ship came off somewhere between eleven and eleven-thirty. At ten minutes past twelve, the Miller Salvage Co. didn't have a line fast to her. The Inter-Island boats was all cut loose from her and the "Arcona" was towing her with Diamond Headlight on the port side and she was at least two miles from the shore where she had been stranded.

Q. How long would it take to sail two miles or go two miles?

A. Towing that ship to go two miles the "Arcona" didn't tow that ship over six minutes. It would take at least twenty minutes to go two miles.

Q. Then wasn't it, as a matter of fact, about twenty minutes before ten minutes after twelve that she came off?

A. Excuse me, I've got to get the lines.

Q. Captain Miller, one of your witnesses said the other day that the lines of these various vessels and your own lines were let go very soon after the "Celtic Chief" came off the reef. Do you mean to tell me that is so? A. Yes, if my witness testified.

Q. Isn't it the fact that your own tackle, your own line, was loose and thrown overboard off the "Celtic Chief" within a moment?

A. No, sir, and I don't care if my own witnesses say. It is not possible to do it.

Q. How long did it take?

(Testimony of Frederick C. Miller.)

A. To guess at it, our lines, Mr. Olson, must have taken—I'm telling you the best of my knowledge—it couldn't have been more than five or ten minutes.

[1826—993]

Q. It might be five minutes?

A. It might possibly be five.

Q. Your line was hanging loose over the side?

A. Yes.

Q. All that was necessary was to unshackle it?

A. No, sir. The "Celtic Chief" had a big chock and our hawser was coming through there, and there was a big shackle on it, and when the shackle come on to that chock we couldn't get it through and we had a good deal of trouble.

Q. You were working pretty rapidly?

A. You bet your life.

Q. Isn't it possible that it didn't take more than five minutes?

A. Such is possible, but when I said five or ten, I told you the best of my judgment.

Q. Isn't it true also that the Inter-Island—

A. They cut loose as soon as they could.

Q. I'm asking you if they did it within the same period.

A. I don't know just when they cut their lines. I should say pretty near the same time.

Q. Then, if it took twenty minutes for the "Arcona" to get the "Celtic Chief" out to the place where she was when you say it was ten minutes after twelve, and it cannot have taken more than five minutes to get these lines loose, then, Captain Miller, isn't it possible, as far as your own knowledge is

(Testimony of Frederick C. Miller.)

concerned, that she didn't come off about ten minutes to twelve? A. No, it is not.

Q. About fifteen minutes to twelve?

A. I don't think that.

Q. Isn't possible for you to remember what you testified? A. I'm telling you what I know.

Q. If it only took twenty minutes to take the "Celtic Chief" out to the place where you say she was until ten minutes after twelve and it only took five or ten minutes to let go the lines, isn't it quite possible that she came off about [1827—994] eleven forty-five?

A. Yes, if it only took twenty minutes and if it only took five minutes to cut my lines, then it was eleven forty-five.

Q. And it's possible that it was about that time, as far as your knowledge is concerned?

A. As far as my knowledge is concerned it is nearer eleven than twelve.

Q. I'm not asking you what it was according to your knowledge except in regard to what you just testified. Isn't it quite possible, as far as your knowledge is concerned, that she didn't get off until fifteen or twenty minutes to twelve?

A. As far as my knowledge is concerned?

Q. I'm asking you if that isn't quite possible, as far as your knowledge is concerned?

A. If those two figures are right, admitting those two figures to be right, then it was possible that it was eleven forty-five.

Q. And you have already said, I believe, Captain Miller, that these two things may have been accom-

(Testimony of Frederick C. Miller.)

plished within that period of time, the towing of the "Celtic Chief" out to the place where she was at ten minutes after twelve and unloosening the various lines to the "Celtic Chief"?

A. I think it possible. It could have been.

Q. I'm asking if it isn't possible that it was done?

A. It's possible.

Q. Now, then, coming back then to this first seaward change of position on the part of the "Celtic Chief" that you observed, was that nearer to nine o'clock than it was to ten o'clock?

A. Nearer to nine than to ten.

Q. I'll ask you, nearer eight o'clock than nine o'clock? A. No, I don't think so.

Q. How long did you stay down in the cabin before you came up and made this observation?

A. I think I was in that cabin altogether, including the [1828—995] times that we came in and out.

Q. The point—I'm asking how long it was that you first came into the cabin, which you say was about half-past eight, until you came out on deck and made the observation in order to see—after half-past eight I mean the time you went down into the cabin—how long was it from that time until you up and made that observation on the deck?

A. I don't know that I can recall just when we first noticed that she was coming. I think as a matter of fact, one of our men first called my attention to it and that she was moving and that we was getting some on the lines, that we was coming slowly

(Testimony of Frederick C. Miller.)

off and also he showed me the bearings and the channel lights.

Q. What time do you think that was?

A. I think that was somewhere—I should say nine o'clock. Probably, maybe little after.

Q. Might have been a little before?

A. I don't think it was before.

Q. It would be about nine o'clock according to your best judgment.

A. Say about nine o'clock. I'm not positive about those times.

Q. Now, you satisfied yourself that the "Celtic Chief" had come seaward several feet at that time, did you?

A. Well, I satisfied myself she'd moved three or four feet.

Q. At that time? A. At that time.

Q. Did you go back and inform Captain Henry and Captain Macaulay and Captain Haglund about that? A. Captain Haglund was not there.

Q. Did you inform Captain Henry and Captain Macaulay? A. No, I did not.

Q. You didn't intend to?

A. No, I didn't intend to.

Q. You didn't want them to know anything about it? [1829—996] A. I did not.

Q. And you went back down there and regaled yourself with lunch? A. I did.

Q. And told stories back and forth? A. Yes.

Q. In other words, it was your purpose to keep them in the dark about it?

A. I didn't tell them that ship was coming off.

(Testimony of Frederick C. Miller.)

Q. You were trying to keep that from knowing?

A. I wasn't holding them.

Q. I am merely referring to the question to which you answered you did not tell them that the ship was coming off.

A. If I stated that—I had no power to keep them quiet. I wouldn't have told them, however.

Q. Preferred not to have them know?

A. I preferred not to have them know, because I told our men two or three times to shut up their noise.

Q. Did you make that the first time?

A. The first time I didn't tell the men at all of the fact that she was moving. Before the first bump those kanakas knew as well as I knew it.

Q. Now, didn't Dick Clarke come over to the cabin and call you out?

A. He came out to the cabin door and called me once.

Q. Wasn't it just after that first bump that he came aft with —— ———?

A. Possibly, it may have been.

Q. And he told you that she was coming?

A. Dick called me and told me she was coming.

Q. Mustn't it have been the time of the first bump? A. It may have been.

Q. Might it have been that first bump?

A. No, no. I'll tell you why. The first time she started I think it was the strap of the ropes or hawsers. [1830—997] When they said that they had got three or four feet, I said to the man, I forget now whether it was Weisbarth or Tom Mayson, he said,

(Testimony of Frederick C. Miller.)

“Captain, there’s your range lights.”

Q. Tom Mayson told you that?

A. I wouldn’t say it was Weisbarth or Tom Mayson.

Q. Tom Mayson was there?

A. Tom Mayson, Dick Clarke, Weisbarth.

Q. And you all four noted this change?

A. It was one of them that called my attention.

Q. Then you all took a look?

A. I don’t remember whether the rest of the men took a look.

Q. But Mayson was there?

A. Mayson was there and knew it and he could not mistake it. He came up on the poop deck and then he spoke to me.

Q. Now, how long was it between that first movement that you observed at about nine o’clock?

A. It was quite a little time and I can’t say just how long.

Q. About an hour, couple of hours?

A. I don’t know. Oh, no, I don’t think two hours. It might have been an hour or might have been later. It might have been a little over, I can’t say.

Q. You think it was a little over an hour, any way don’t you? A. I think it’s possible it was.

Q. I’m asking you what you think it was?

A. I’m only hazarding a guess.

Q. I’m trying to get from you your best recollection.

A. I would say it was over an hour because from that first movement, the first coming in inch by inch on that purchase until we felt the bump, I guess I

(Testimony of Frederick C. Miller.)

was in that cabin an hour.

Q. Now, can you tell me how long it had been since you were out on deck until the time that Clarke, or until the [1831—998] time that you first felt the first bump, just before that bump? I want to find out how long before it had been since you had been on deck.

A. You want to know the interval from the time from that first bump to the time I had been on deck previously?

Q. Yes.

A. I couldn't give you that because I was coming and going out on deck.

Q. Still, at the same time that bump is pretty clear in your mind?

A. Oh, I remember that now.

Q. You had been down in the cabin for some little time with Captain Henry and Captain Macaulay?

A. Yes.

Q. Probably ten or fifteen minutes?

A. Yes, possibly.

Q. After having been up on the deck, on the main deck? A. I think so.

Q. And then you felt this bump and Captain Macaulay made the remark—no, it was Captain Henry made the remark—

A. No, Captain Henry. Captain Macaulay was telling the story.

Q. And Captain Henry made the remark that the ship must be coming off?

A. He said, "The ship's coming off."

Q. What did Captain Macaulay say?

(Testimony of Frederick C. Miller.)

A. He said, "Sit down! Why, how can it come off? They're not towing." Captain Henry said, "This man's got his anchor out." Captain Macaulay said, "Oh, sit down! Let me finish my story; she isn't coming off."

Q. Did you say anything at all?

A. I think I said to him then—he had said before, if Haglund had had any sense he would have sent him a bottle of beer to eat with that lunch. Captain Haglund had sent over a dish of sandwiches and pies. I said to him, "If you wait ten or fifteen minutes I'll put you [1832—999] alongside the 'Arcona' and get some beer from them," and Macaulay thought that was a good joke.

Q. Henry thought it was a good joke?

A. No, Henry was uneasy—he was rather uneasy because he jumped out of his chair quick.

Q. Did you agree with Captain Macaulay or did you agree with Captain Henry?

A. Oh, I agreed with Macaulay.

Q. What did you do that for?

A. Well, I didn't want them to know that she was coming off.

Q. So you were sure that she was coming off?

A. I didn't tell Henry that the ship was coming off. I said, "I'll put you alongside that German cruiser in twenty minutes."

Q. In other words, you turned it into a sort of joke in telling them what you thought was the truth? A. Exactly.

Q. In a jocular way? A. Sure, I did.

Q. You did intend that they shouldn't know.

(Testimony of Frederick C. Miller.)

A. As far as I could.

Q. As far as you could, you gave that impression, you wanted to create that impression? A. I did.

Q. Do you know where the German cruiser officers were at that time?

A. I never saw the German cruiser's officers from the time they left that ship along about dusk, we'll say, as near as I can remember, until I saw them when we all three walked out of that cabin after that last bump. And when we came out of the cabin the German cruiser's officers and Captain Haglund stood on the upper deck. I think Captain Haglund was there and some of the German officers. In the various times I had come out I had never seen them.

Q. How long a time do you think elapsed from the [1833—1000] first bump, from this gradual coming, how far between that bump and the second bump?

A. That I can't tell you. It may have been twenty minutes and it may have been an hour.

Q. Might have been an hour?

A. It might have been, I should say. I'm giving you the best of my knowledge.

Q. I think you testified, Captain Miller, on direct, that you had been down in the cabin before coming out on deck, about twenty minutes immediately prior to your coming out the last time when she came off the reef?

A. I think that I was there. I haven't read over what I testified. I'm telling you that I think—I'm telling you now that immediately prior to the last bump I think that I was in that cabin at least fifteen

(Testimony of Frederick C. Miller.)

or twenty minutes.

Q. Might have been half an hour?

A. Well, it may have been.

Q. Well, then, isn't it the fact, Captain Miller, that you were only out on deck once between the two bumps—that is, between the time you went out and told the men to shut up?

A. The best of my recollection is that between the two bumps I only recollect of going out on deck once.

Q. And that was the time you went out and told the men to shut up?

A. Yes, I told them to shut up then, but I may have told them before the first bump.

Q. What were you doing down there in that cabin during that period of time, that is, between the first and second bumps after you had come back into the cabin again? What were you doing at the time?

A. Telling stories and exchanging experiences.

Q. Didn't you feel pretty sure that there would probably be another movement of the "Celtic Chief" in a short time?

A. I did. I expected to feel our side, our stern, bump right into the German cruiser. [1834—1001]

Q. At any time? A. That's what I did.

Q. Why weren't you out on the deck?

A. I didn't want to see it. I wanted to feel it.

Q. I want to know why it was that you stayed down there in the cabin?

A. Because it suited me to do it.

Q. That was a pretty critical moment of the salvage of the "Celtic Chief"? A. Sure it was.

Q. Still you deliberately stayed down in the cabin,

(Testimony of Frederick C. Miller.)

feeling that that ship was going to come off at any time? A. I did.

Q. What was your reason?

A. I didn't want them fellows on deck setting up any signal rockets.

Q. And you stayed down there in order to keep them from sending up the signals?

A. I don't know that my presence with them kept them, but it—

Q. That was your intention, at any rate?

A. That was my intention.

Q. Why didn't you want them—

A. For this reason, if those rockets and signals had gone up the German cruiser would have started pulling right away and she would then claim the credit for pulling that ship off.

Q. She now claims it?

A. She can claim all she wants to. I know.

Q. It's the fact, is it, Captain Miller, when that second bump occurred and Captain Henry and Captain Macaulay and you were down in the cabin, the first thing Captain Macaulay did was to go out on deck?

A. No; the first thing he did, he said, "Why, Miller, your anchor's dragged." I said, "No; look at your range lights." And as soon as he saw the range lights he gave the order to put up the green light.

Q. According to your observation, as soon as Captain Macaulay realized that the "Celtic Chief" was beginning to come [1835—1002] off, the first thing he did then was to order the signal given?

(Testimony of Frederick C. Miller.)

A. That's right.

Q. Even though it may have taken some little time to come to that realization, the first thing that he did was to see that the signals were given?

A. That's right.

Q. And you think that that's what he would have done after the first bump?

A. He would have done that if he thought that ship was coming off.

Q. And that's what you wanted to prevent?

A. That's what I wanted to prevent.

Q. And did whatever you could to prevent it?

A. We did nothing to prevent; that's up to them.

Q. You told your men to keep quiet? A. I did.

Q. And you kept quiet?

A. I kept quiet as far as telling them the ship was coming off.

Q. And kept telling them stories.

A. They could tell a better story than I could.

Q. You proved a good listener to their stories?

A. Indeed, I did.

Q. You observed, did you not, between this inch by inch movement that you observed about nine o'clock, and the first bump, upon several occasions when you went out on the deck from the cabin, that the various steamers that had lines attached to the "Celtic Chief" were doing nothing and had their lines slack in the water?

A. I observed this, Mr. Olson: the lines from the cruiser was slack and in the water, and as far as my observation goes, at not one of those times or any other time up to the time these signals went up that

(Testimony of Frederick C. Miller.)

German cruiser wasn't pulling.

Q. Now, what about the Inter-Island boats?

A. The Inter-Island boats, I don't know what they were doing aboard the boats, but my observation of their lines [1836—1003] was that they were not as taut as they had been when I had observed them pulling at full speed.

Q. Now, you said they were pulling at slow speed as far as you could judge.

A. As far as I could judge. I would tell you now that they were just turning over their propellers just enough to get a strain.

Q. At slow speed? A. At slow speed.

Q. Did you observe that their lines would come out of the water at times with a great jump?

A. I did. I'll tell you what that was. There is a swell running there and sometimes between the swell, between the crests of two swells you will see the lines out of the water.

Q. And that's all there was? A. That's all.

Q. It didn't indicate any strong pull on the part of the vessels?

A. To the best of my observation, there was no strong pull from any of those ships on the "Celtic Chief" up to the time of that last bump and I came out of the cabin.

Q. They were not exercising, certainly, as much power as they could exercise?

A. They certainly did not exercise as much as they had when I observed previously.

Q. And that's also true of the "Arcona"?

A. It was not the case with the "Arcona" because

(Testimony of Frederick C. Miller.)

the "Arcona's" propeller was already stopped.

Q. You think that's the way she did her pulling?

A. I don't think she did any pulling.

Q. On Wednesday afternoon? A. Yes.

Q. She did her pulling by means of her propeller?

A. That Wednesday afternoon. She was using her propeller before, sure.

Q. You don't know that she had a large anchor out ahead and was heaving in on her anchor-chain and that was what [1837—1004] she was pulling by?

A. I'm not prepared to say, but I don't believe she was heaving in on her line that night and I know she didn't go because we was shortening up our distance to one foot.

Q. If she was pulling by means of her anchor—

A. No, sir; we shortened up our distance less than one foot between the distance that she was between these ships. And if she had been pulling either by her propeller or by her anchor we couldn't shorten the distance.

Q. Your anchor didn't move, did it?

A. No, it didn't.

Q. Why not?

A. Because it was fastened in the bottom.

Q. How did you expect the "Arcona's" anchor—

A. Because the ship was going to the anchor. The "Arcona" was going towards her anchor and then the "Celtic Chief" would naturally follow.

Q. Why would it?

A. Why, because her, because the two lines to the "Arcona," to the "Celtic Chief," were aboard the "Celtic Chief."

(Testimony of Frederick C. Miller.)

Q. That, Captain Miller, is not an answer to my question. I'm asking you the reason that the "Celtic Chief," that the "Arcona" would have gone out eastward if she—

A. Sure, she would have gone eastward because the anchor, you'll understand, her anchor must have been placed eastward of her bow.

Q. Yes.

A. All right; now, if she's heaving in on that anchor she is heaving up to that anchor and anything that is fast to her stern would naturally, keep that certain distance.

Q. Captain Miller, that is an attempt at an answer and I am now going to ask you another question. If the "Celtic Chief" was being pulled by the "Arcona" by heaving in on her anchor-chain, would it be true just prior to the second time [1838—1005] that the "Celtic Chief" began to come that there would be an equal strain on the lines between the "Celtic Chief" and the "Arcona" as there was on the anchor-chain?

A. Mr. Olson, I don't know what strain was on the "Arcona's" anchor-chain.

Q. I'm not asking you about that.

A. I only know about distance between the two ships and I do not know that she would not be. I do know that the "Arcona's" lines connected to the "Celtic Chief" were slack.

Q. I'm asking you this question and you haven't yet answered it. Isn't it true that if the "Arcona"—I'm going to ask you a hypothetical question. If the "Arcona" did have a strain on her an-

(Testimony of Frederick C. Miller.)

chor-chain, isn't it true that prior to the second time that the "Celtic Chief" actually began to come off there would be less strain on the lines between the "Arcona" and the "Celtic Chief," if there was a strain on the anchor-chain? Isn't that true as a scientific fact? A. Necessarily, yes.

Q. Doesn't it follow that if the "Celtic Chief" then came off the "Arcona" would be pulling from the fact—

A. No, if the "Arcona" was heaving in on her anchor-chain, the same strain that might have been previously or before, in the first place. There wasn't anywhere a strain on them.

Q. And you are willing to swear that she did not have her lines taut?

A. Mr. Olson, I'm prepared to swear now until next year that the lines connecting the "Celtic Chief" to the "Arcona" was not, at any time during that night, I'm not speaking of that afternoon,—at any time during that night, above the water.

Q. You are willing to swear to that?

A. I'm willing.

Q. You were there that night?

A. I know they were not at the time I looked at them. [1839—1006]

Q. Then you don't know whether or not the "Arcona" was pulling with all her might from about twenty minutes prior till she came off?

A. I don't know. I don't believe so because I would have heard her windlass.

Q. You could have heard her windlass down in the captain's cabin.

(Testimony of Frederick C. Miller.)

A. I could have heard it every time I go on deck.

Q. Were you out on deck twenty minutes before the last jump? A. I don't think so.

Q. Do you know what the condition of the "Arcona" was during those twenty minutes?

A. I don't.

Q. You are not prepared to swear that the "Arcona" was not pulling that last time?

A. I'm not prepared to swear.

Q. You said a few moments ago that you thought and could swear that she was not pulling.

A. I said I don't believe she was.

Q. But you don't know?

A. I don't know for that twenty minutes; no.

Q. During these seven years of experience that you had on the Atlantic in salvage, when you say that you had a great deal of experience in salving vessels, and during the time that you have had salving experience in the Hawaiian waters, did it never come to your notice, Captain Miller, that the first duty of a salvor when a vessel is in distress and that salvor is attempting to give aid to the vessel, that the first duty of the salvor is to do everything for the distressed vessel, regardless of self-interest?

A. No, I did not.

Q. You don't regard that as an established rule?

A. No, because a salvor is under the orders of the captain and has got to carry out his orders.

Q. That's the principle upon which you acted in these "Celtic Chief" operations? A. I said—

Q. Is that right? [1840—1007]

A. Yes, that is right. The captain of the ship is

(Testimony of Frederick C. Miller.)

in charge of the ship and the salvor and everybody on board of her.

Q. Where did the conversation take place between the German cruiser officer, Captain Henry, Pilot Macaulay, and possibly, also Captain Haglund, when certain signals were agreed upon between them? A. On the poop deck.

Q. Were you among them?

A. I was as close to them as I am to his Honor, Judge Clemons, about six or seven feet away.

Q. About five or six feet away?

A. I should say five or six feet.

Q. You were in the same group practically, were you? A. I was in practically the same group.

Q. So that you believe still that certain signals were agreed upon between these various men having charge of certain parts of the salvage operations there? A. Yes.

Q. Which would indicate to these various vessels when they were to begin to exert themselves?

A. Yes.

Mr. WARREN.—I don't think that's the testimony, your Honor.

Mr. OLSON.—I have no objection to that. You don't know anything about the signals for the Inter-Island boats?

A. I didn't hear any of that arrangement because I don't remember being present at any conversation when any arrangement was made between Captain Haglund and the captain of the cruiser, but I do remember distinctly the question of these signals and this horse pistol affair between the German officers

(Testimony of Frederick C. Miller.)

and the captain of the ship coming in. I remember because Macaulay had to send to get the morning's paper to see when it was approximately high tide.

Q. Your impression was that Captain Haglund was there.

A. My impression was that Captain Haglund was there, but I'm [1841—1008] not certain.

Q. Who else was there besides Captain Haglund, possibly, Captain Macaulay, Captain Henry, and yourself?

A. I think the first officer of the ship was stationed there also.

Q. Anybody else?

A. There may have been; I don't remember.

Q. You don't know?

A. I wouldn't state yes or no.

Q. The German officer was there?

A. A man that I took to be the commanding officer was there and he had another man with him.

Q. About what time was that?

A. I would say that that was, it was before dark.

Q. Just before dusk?

A. I should say just about dusk, a little before.

Q. It being in December, what, if you know, then, was the time?

A. I would say about six o'clock. That's the best of my remembrance.

Q. What did the German officer then do, where did he go?

A. If I remember right, he returned to, both of those men returned to the "Arcona."

Q. As I understand you, then, Captain Miller,

(Testimony of Frederick C. Miller.)

from the time that you and Pilot Macaulay and Captain Henry were down in the captain's cabin, until the "Celtic Chief" came off the reef, practically speaking, the only activity on board of the "Celtic Chief" was that shown by the Miller Salvage Co. men? A. Entirely so.

Q. Nothing else doing around the deck?

A. The crew was turned in, the mate of the ship was turned in, lying down but wasn't asleep. He testified afterwards, he told me he wasn't asleep but he was in his room. And I think that the only one of the crew that I know, all that I [1842—1009] saw that was awake was the captain of the ship.

Q. And he was down in the cabin?

A. He was in his room.

Q. Where was Captain Haglund?

A. Captain Haglund left the ship, as near as I can remember, about dusk. I don't know where he went.

Q. And you didn't see him from that time on until she came off?

A. I don't remember whether Captain Haglund came down into the cabin while we were there or not. He may have poked his head in the cabin door once or twice.

Q. You didn't see him about the door?

A. I don't remember seeing him about the ship and I don't think that he came into the Captain's room, and he might have done so.

Q. As far as you remember, Captain Haglund wasn't around the deck?

A. As far as I remember, I don't remember seeing

(Testimony of Frederick C. Miller.)

Captain Haglund from the time he left about sun-down until I saw him after I came out after that second bump.

Q. Where was he when you came out after the second bump? A. He was standing aft.

Q. On the poop? A. On the poop deck.

Q. As far as you know there were no signals given by that vessel, these rocket signals at all, after that second bump.

A. As far as I know, none were given.

Q. Did it make a noise when they were shot off?

A. Not much of a noise, a sort of a pop.

Q. Wasn't there quite an amount of pop?

A. Not more so than to an ordinary skyrocket. It wasn't much a report.

Q. You would have heard that report if they had been given while you were down in the cabin even.

[1843—1010]

A. If it had been given, Mr. Olson, I might have heard it, but I am not, but I don't believe it was given.

Q. You are pretty sure that if it was, you would have heard? A. I think I would.

Q. You feel practically positive that they were not given?

A. I feel positive that they were not given.

Q. Just where did you drop your big anchor?

A. As near as—

Q. Just a moment. Where did you drop your big anchor outside, not when you came out there near the "Celtic Chief"?

Mr. WEAVER.—I object to that, if the Court

(Testimony of Frederick C. Miller.)

please, assuming a fact that is not proved.

The COURT.—Objection overruled.

A. I think we dropped that big anchor—

Q. You are sure of it, aren't you?

A. I'm quite positive, I'm not certain. I remember running the surf line in. I think we dropped the big anchor and then we dropped the little anchor of the boat also.

Q. Didn't you testify positively this morning or yesterday, Captain Miller, that the anchor was dropped by the "James Makee"?

A. I tell you now I think we dropped it.

Q. Don't you remember positively?

A. I know we anchored the "James Makee" on Tuesday night positively. The best of my recollection is we dropped both the anchors. We dropped our big anchor because I wished to pull over that port quarter of the "Celtic Chief."

Q. You did?

A. That's what I placed it there for.

Q. You testified on direct, at any rate, in the examination, in your testimony yesterday or to-day, yesterday, that it took you about three-quarters of an hour to get outside. "When we got to the 'Celtic Chief' we went to the, on to the port quarter and dropped the big anchor"? [1844—1011]

A. Yes.

Q. Is that correct? A. I think that's correct.

Q. You took careful observation and know of the various things that went on? A. I did.

Q. And you've testified very positively in regard to some things? A. Some things impressed me.

(Testimony of Frederick C. Miller.)

Q. And you were the person in charge of the anchor operations of the Miller Salvage Company?

A. I was in charge all the time.

Q. And yet you aren't positive now whether that big anchor was dropped on Tuesday night?

A. I think we dropped it.

Q. You've said that several times, but I'm not asking you what you think. I'm asking you whether you are positive.

A. No, I wouldn't swear to anything if there is a doubt in my mind about it. If I didn't drop it you can take it from me I intended to drop it there. I'm pretty positive that I dropped it. I think the best of my recollection is that we dropped the big anchor and then run the surf line, and I certainly would not run the surf line unless I intended to drop the anchor there.

Q. So you are practically certain you did drop it there that night? A. It may be so we did.

Q. You didn't express any doubt on that question when you testified on this before when I questioned you upon your testimony? You didn't express any doubt in your own mind?

A. No, I said I did. I'm stating everything to the best of my knowledge and belief and the best that I remember. I'm saying so now.

Q. That anchor was laid on the port quarter, you say? A. On the port quarter.

Q. Of the "Celtic Chief"?

A. Of the "Celtic Chief."

Q. Do you remember the relative positions of the

(Testimony of Frederick C. Miller.)

towing steamers at the time you came out there Tuesday night?

A. Perfectly well. [1845—1012]

Q. What vessels were in on the starboard quarter?

A. From the best of my remembrance, "Mikahala" was on the starboard quarter.

Q. The next vessel?

A. The next vessel was the tug "Intrepid."

Q. What direction was she pulling in respect to the "Celtic Chief"?

A. She was pulling almost directly astern.

Q. And then the next vessel?

A. I'm telling you from my remembrance and belief, the next was the "Helene."

Q. And the next vessel?

A. As near as I can remember the next was the "Likelike."

Q. Both of them on the port quarter?

A. The "Likelike" lay on the quarter and I think the "Helene" was possibly on the quarter.

Q. If the "Intrepid" was dead astern, then the "Helene" was to port of the "Intrepid"?

A. That's right.

Q. How much would you say on the port quarter of the "Helene" and the "Likelike"?

A. I should say that she was about say three points on her port quarter.

Q. And the "Helene" was between here and the "Intrepid"?

A. The "Helene" was between the "Likelike" and the "Intrepid."

(Testimony of Frederick C. Miller.)

Q. And you mean to say that the "Helene" was pulling between those two vessels with the "Intrepid" dead astern and the "Likelike" only three points to the port?

A. As near as I can remember.

Q. How much distance was there between those two vessels? A. Not very much.

Q. How much?

A. Between the "Intrepid" and the "Helene"?

Q. Between the "Intrepid" and the "Helene," first.

A. Between the "Intrepid" and the "Helene," I would say there was about one hundred feet, one hundred or one hundred and fifty. [1846—1013]

Q. And they were all pulling with lines approximately nine hundred feet long?

A. I don't think their lines were over five hundred feet.

Q. That's the "Intrepid," the "Helene," and the "Likelike"?

A. All of them about the same length and I would say about seven hundred.

Q. And it was about a hundred feet between the "Intrepid" and the "Helene"? A. About that.

Q. Now, about what distance between the "Helene" and the "Likelike"?

A. The "Helene" and the "Likelike," I would say about one hundred or one hundred and fifty foot, two hundred feet. Possibly two hundred feet.

Q. As much as a hundred yards between the "Intrepid" and the "Likelike"?

A. Yes, I'd say that.

(Testimony of Frederick C. Miller.)

Q. And that's your idea of being three points to the port quarter? A. Yes.

Q. Now, then, where, in respect to the "Likelike," did you drop your anchor Tuesday night, if you are able to tell?

A. To the "Likelike"? That would be more to the port. More to the port of her.

Q. You'd be still more to the port quarter?

A. Yes.

Q. How far?

A. I'm telling you the "Likelike."

Q. The last of the four.

A. The last of the lot.

Q. About how far from her?

A. Close to her, about a hundred feet.

Q. About a hundred feet from the "Likelike"?

A. About a hundred feet.

Q. And that's where you intended to drop your anchor that night? A. Yes.

Q. Did you have any difficulty in getting your anchor into position on Wednesday when you lifted that anchor? A. Yes.

Q. What was the difficulty?

A. The "Helene" and the [1847—1014] "Intrepid" were so close together that it was difficult for us to get in there and move around.

Q. But you did get in? A. We did.

Q. Where did you drop that anchor, ahead of the "Intrepid" or astern of the "Intrepid"?

A. Right abreast of her.

Q. Between the "Intrepid" and the—

A. The "Helene."

Q. The "Helene"? A. Yes.

(Testimony of Frederick C. Miller.)

Q. So that it required about seven hundred feet of line to attach the anchor to the "Celtic Chief"?

A. It would have taken if their lines were 700 feet.

Q. And yet you say that line was not long enough to get it completely aboard the "Celtic Chief."

A. I said that line didn't come within twenty or thirty feet of the "Celtic Chief."

Q. Why, then, did you say that line was about nine hundred or a thousand feet long?

A. Maybe I said it was 900.

Q. Why do you testify now that your anchor was 700 feet?

A. I'm telling you the best of my knowledge and belief, that those lines were about 700 feet, and when I told you that we dropped abreast of the "Intrepid" I meant to say about abreast. It might have been away from her.

Q. And there wouldn't have been so much difficulty in dropping the anchor then?

A. The difficulty would have been.

Q. Didn't the "Intrepid" have an anchor out?

A. I think not.

Q. Did the "Helene"?

A. I think she did. I don't know but my impression is she did.

Q. Do you wish to change your testimony on that point?

A. I don't wish to change anything that I told you.

Q. Then you still think that they were seven hundred feet from the "Celtic Chief"?

A. I'm telling you all these lines that the Inter-

(Testimony of Frederick C. Miller.)

Island was pulling at I don't think [1848—1015] was over 700 feet.

Q. Do you know the length of the "Intrepid"?

A. About ninety or a hundred feet.

Q. Now, then, if you had a 900-foot line from your anchor and that line wouldn't reach to the stern of the "Celtic Chief," falling about thirty feet short, wouldn't it necessarily mean that your anchor was over a hundred feet in front of the bow of the "Intrepid"? A. I don't say that it wasn't.

Q. What do you mean by saying it was abreast?

A. About abreast, I think. Just like that, her anchor is here, the "Intrepid" lying here. I think we may have dropped out anchor out here, way out. I won't say that it was abreast.

Q. It couldn't have been with the "Intrepid" out 700 feet? A. It couldn't have been.

Q. Then it was not abreast of her, was it? The anchor wasn't abreast of the "Intrepid"?

A. It might have been just abreast.

Q. Don't you know?

A. I don't remember just where we dropped it. I know we came in between those two ships, between the "Intrepid" and "Helene."

Q. Are you sure that you had an anchor laid out there at all? A. Oh, yes, I am positive of that.

Q. You don't merely think about that?

A. Oh, no, I don't think about that. When we dropped our anchor I didn't measure the distance.

Q. But you ordinarily know whether or not you're within a hundred feet of a vessel or within fifty feet; that is, on line a hundred feet with a ves-

(Testimony of Frederick C. Miller.)

sel which is not more than fifty feet to one side or the other of a line between you and the point you expect to pull on?

Mr. MAGOON.—I object to that because there's nothing in the evidence.

Mr. OLSON.—I'll withdraw the question and re-frame it. Wouldn't you naturally have observed whether or not you were within a [1849—1016] distance of over a hundred feet away from a towing steamer which lay approximately fifty feet from the line between you and the object on which you expected to pull, wouldn't you have observed whether or not you were a hundred feet or over ahead of her or abreast of her? A. No; let me make this clear.

Q. You wouldn't observe that?

A. I would not. What I was trying to say all the time, and that's the reason I'm not squarely on the point you are trying to draw from me—I knew I had about 900 feet of wire in a cable like I was trying to judge to drop that anchor so that the end of that wire would reach the "Celtic Chief's" stern. At the same time I was afraid that the boats might have a collision between the "Intrepid" and "Helene." Now, you can see that I've got to take my ship in between two ships where there isn't room for four ships and I've got to get my line, drop my anchor so that the end of my steel wire will come to her stern, and that's a pretty nice calculation to make.

Q. You were thirty or forty feet to seaward where you should have dropped that anchor?

A. I was somewhere about thirty feet from the mark where the vessel should have been.

(Testimony of Frederick C. Miller.)

Q. You were making this mark?

A. The trouble was I had two vessels; the "Mokolii" was towing the "James Makee" and that's what made it very difficult.

Q. The "Makee's" engines were not working?

A. The "Makee's" engines were not working.

Q. Why?

A. Because her inspection certificate had expired a few days before and I had failed to ask the inspectors to come down there and pass her.

Q. And the inspector came down there and locked up your propeller?

A. No; he came down there and notified me that I couldn't go out until she had been passed.

Q. Then the fact of the matter is that the "James Makee" could [1850—1917] not come abreast of the "Intrepid"?

A. Yes, she did. She came in near abreast, but hauled her stern with this surf line right close in to the "Celtic Chief."

Q. All the time the "Mokolii" was towing on her?

A. I think the "Mokolii" dropped her and we hooked on to the anchor-line, and we took the surf line and we run it to the stern of the "Celtic Chief" and hove the stern of the "Makee" right back towards the stern of the "Celtic Chief."

Q. Do you mean to say that you didn't drop your anchor until you had, after your surf line was aboard?

A. No, if I remember right, we dropped our anchor first.

Q. What was the necessity, then, of drawing your-

(Testimony of Frederick C. Miller.)

self in by means of the line after you had got your anchor dropped?

A. The necessity was that we got a heavy wire attached to the anchor.

Q. So it was taking in this big wire line that—

A. To get the big wire line to the "Celtic Chief" necessitated the hauling of the "James Makee" back.

Q. Did you regard the position of your anchor with reference to the "Celtic Chief," after you got it down, as the proper place for you to have your anchor? A. Astern?

Q. Yes.

A. There was a question about that. I think now that it was all right.

Q. Didn't you think so then?

A. I thought that the port quarter was the best place for it.

Q. Why?

A. I'll tell you why, Mr. Olson. The "Celtic Chief" lay on the reef with the bow directly to the breakers, almost at right angles to the line of the breakers; the surf was running in heavy, right straight astern, but a little, if anything, on the starboard quarter; on her port quarter there was six fathom of water. I dropped her six and a half fathom on this side of [1851—1018] the stern. There was not quite so much water. I was figuring if she come off that way this surf running on the starboard quarter would help her. That was my first idea. Captain Macaulay and Captain Henry objected to that, and said that in their judgment the best position was right straight astern.

(Testimony of Frederick C. Miller.)

Q. When did they tell you that?

A. That next morning, Wednesday morning.

Q. As a matter of fact, Captain Miller, wouldn't this have been the result if you kept hauling her on the port quarter, with your anchor, wouldn't it have had a tendency to throw the ship more around broadside on the reef?

A. It was not so; it was on the quarter, Mr. Olson, that it would have pulled her off at the same time.

Q. If you could have got her off, you mean?

A. Yes.

Q. Suppose you had failed to get her off?

A. She never could have gone on the reef broadside with that anchor on the port quarter.

Q. Supposing your line had parted?

A. If my lines had parted that I was pulling on and she started she certainly would have.

Q. As a matter of fact, that was the reason why it was decided to lay the anchor more astern?

A. I am not prepared to say or question their judgment. I think they were right.

Q. Wouldn't it have been better to have been on the starboard quarter?

A. No; have the swell to help the swell is what brings a ship off.

Q. It makes her opening? A. Yes.

Q. I think you testified that it was about eight P. M. when the men had gone for their supper on Wednesday night?

A. Possibly eight o'clock. I think it was late.

Q. Well, then, if—

A. No, I think it was dark. [1852—1019]

(Testimony of Frederick C. Miller.)

Q. And they went to get their supper immediately after you got your tackles rigged and hove them taut?

A. No; they hove them taut long before that. We hove those tackles taut in the forenoon, Wednesday.

Q. You had them taut in the forenoon?

A. I wouldn't say we had them taut that time.

Q. Is that what you mean when you say you had them taut in the morning? A. In the forenoon.

Q. In the forenoon?

A. We hove those in in the forenoon and hauled them taut. In the afternoon we tested them again for any breaks or weakness; then we hove them in in the afternoon.

Q. When you went about the deck there various times on Wednesday afternoon and evening you made a careful note, did you not, of the vessels, of the various lines and wire that came to the "Celtic Chief" and were attached to her? A. Yes.

Q. Did you observe that the "Arcona" line on the starboard went through a chock about amidships?

A. Yes.

Q. The line on the port came through the side of the vessel at the break of the poop; that's correct, isn't it? A. That's correct.

Q. The "Mikahala" line went through the corresponding chock on the other side?

A. That's right.

Q. Did you observe that the "Mikahala's" lines were directly—

A. No, sir, because the "Arcona" line came in on the port side.

(Testimony of Frederick C. Miller.)

Q. I'm talking about the starboard.

A. They came in through them chocks.

Q. Isn't it the fact that the "Arcona" line on the port side of the "Celtic Chief" went right over the "Mikahala" line on the starboard side?

A. Not to my observation. [1853—1020]

Q. Didn't it go anywhere near it?

A. Not anywhere near it.

Q. Did it go off to the starboard?

A. The "Mikahala's" line came in through that chock and made fast right to the bitts that was right forward of the chock, and the "Arcona's" came in starboard chocks.

Q. I'm asking about the "Mikahala's" line on the outside of the vessel. Didn't the "Mikahala's" line on the outside come along astern? A. Sure!

Q. Then wasn't it fast either above or below the "Arcona's" line?

A. It must be fast either above or below.

Q. Which was above or below?

A. I don't recollect.

Q. Right next to the vessel? A. No.

Q. Way off on an angle?

A. Not way off on an angle, either.

Q. How was it?

A. I would say—I should say at the point where the "Mikahala's" line came in, I should say it was at least three or four feet off.

Q. Off the side? A. Off the side.

Q. And the "Arcona" was that much on the starboard of the "Celtic Chief"?

A. It may have been.

(Testimony of Frederick C. Miller.)

Q. Well, was it?

A. The "Arcona" was approximately astern. No, because the "Arcona" had a bigger beam than the "Celtic Chief."

Q. You observed that she had a bigger beam?

A. I observed that she had a bigger beam.

Q. How much bigger beam?

A. I should say that the "Arcona's" beam—I'm giving my judgment only—that she has at least twenty foot more beam.

Q. That is, ten foot on either side? A. Yes.

Q. And you think that ten feet would make a lot of difference?

A. I don't think anything about that, but I think the "Arcona's" [1854—1021] line was three or four feet off the "Mikahala's" line.

Q. Do you mean to say it was the "Mikahala" line that came in the starboard chock that was off at that angle? What about the "Arcona's" line on the port side? Did it also come in at an angle from the port?

A. I don't think that was off nearly as far as the other one. I think that was closed to the side.

Q. That means, does it, that you could stand back on the forecastle and see those lines?

A. I could see those lines with the searchlight from the forecastle, perfectly clear.

Q. What accounts for the fact?

A. The search-light accounts for it.

Q. Could you see directly astern?

A. No, you couldn't see the Miller Salvage Co.'s line.

Q. Why not?

(Testimony of Frederick C. Miller.)

A. Because they were right over the stern and forecastle, that light. If you stood over this side it's a little bit better—you can see.

Q. What is the width of the forecastle of the "Celtic Chief"?

A. The forecastle at the break of the forecastle is nearly, not quite, very nearly the width of the ship.

Q. Yes. A. Very near.

Q. How far was the capstan from the break of the fo'c's'le?

A. The capstan is probably—I'm telling you from memory—is probably about twelve-foot.

Q. What was the width of the ship at the point where the capstan was located?

A. Probably—I can tell you from guess only.

Q. About the same?

A. Oh, no, it began at the break of the fo'c'sle—it began to break in somewhere, not much, near the fo'c's'le deck.

Q. It was pretty plain to you? A. Pretty plain.

Q. So she'd be pretty nearly the same width at the point [1855—1022] where the capstan was located as she was down about amidships?

A. Not quite the same. There was some difference, not very much.

Q. Just a trifle less than where the break of the fo'c's'le was? A. It would be a trifle less.

Q. You said the arms of the capstan were eight feet. That would make sixteen feet from tip to tip?

A. Yes.

Q. You said three or four feet from the end of each capstan back to the rail? A. About that.

(Testimony of Frederick C. Miller.)

Q. That would make, say at the most, eight feet for the space between the ends of the bars and the rails and eight feet for the bars themselves?

A. Yes.

Q. Making a distance of not more than twenty-four feet from rail to rail? Do you know the width of the beam of the "Celtic Chief"?

A. I think it is about twenty.

Q. Don't you know that it is thirty-nine feet and several inches? A. I don't know.

Q. Do you know, deny that is the width?

A. I deny that I know it.

Q. You're a pretty good judge of vessels. Don't you know that she was probably forty feet?

A. I would say something about it.

Q. How do you account for the fact that it was only twenty-four feet at the capstan when it was practically the same there as it was about amidships of the "Celtic Chief"?

A. I only account for it this way. I think it is twenty-four.

Q. You are sure that a person could stretch from the end of the bar where he was working over the rail of the vessel?

A. I'm sure that a man working on the end of those bars and walking around that capstan could.

Q. It was with a man walking around and around with the end that the man could see everything going on better than [1856—1023] he could from the main deck? I asked you if a man standing at the end of one of those bars could lean over and see over the side of the rail.

(Testimony of Frederick C. Miller.)

A. I don't know that I testified or anybody else testified he could see.

Q. Now, then, Captain Miller, I refer to your direct testimony where you said that the end of the capstan bars from the capstan came to within four foot from, three to four foot from this rail, referring to the fo'c's'le rail.

A. Yes, I think you'll also remember, Mr. Olson, that I said those figures were approximate figures, all these figures were approximate.

Q. If she was about thirty-five feet, it would be a trifle more; it would be ten or twelve?

A. That depends upon how large bars.

Q. You have already testified that they used practically the same length? A. It was frequently so.

Mr. MAGOON.—Do you withdraw the other question, Mr. Olson?

Q. Then I'll ask you this question: Could a man, standing at the end of one of those capstan bars, by leaning over, see over the rail of the fo'c's'le?

A. From the end of those capstan bars?

Q. I'm asking you to testify. The question is, Could a man stand at the end of one of those capstan bars and see over the rail?

A. I think a man would be able to work on those capstan bars and see over the vessel.

Q. Over the rail? A. I think so.

Q. He could see over, beyond, more than above it?

A. Yes.

Q. You don't know he could see alongside the vessel?

A. I don't think he could along the side of the vessel.

(Testimony of Frederick C. Miller.)

Q. Do you mean to say now that it was more than three or four feet from the end of the capstan to the rail?

A. I don't think so. It's the best of my remembrance, from the end of that capstan bar. [1857—1024]

Q. They were eight feet, the bars?

A. That's the best of my knowledge.

Q. You testified positively on that, that they were eight feet?

A. I testified that to the best of my knowledge they were eight-foot bars and I think they were.

Q. Couldn't have been seven or eight feet from the end of the bars to the rail?

A. I don't think it was.

Q. Could it have been five feet?

A. I don't think it was.

Q. Then do you wish to change your testimony as to the width of that vessel?

A. I don't know. I mean to say she was. It may have been the further line that we saw.

Q. You testified, did you not, that she was forty feet wide in the middle? A. I judge that.

Q. There wasn't much difference where the capstan was? A. I judge it was not.

Q. And you mean to say that it wasn't more than three or four feet from the end of the capstan bar to the rail?

A. I mean to say just what I said, to the best of my knowledge and belief there was three or four feet.

Q. How, then? Do you question the fact that she

(Testimony of Frederick C. Miller.)

is as wide there as she is amidships?

A. I don't question it at all.

Q. You say both things: first, that she was practically as wide where the capstan was, amidships on the fo'c's'le, and also that it was only three or four feet from the end of the bars to the rail?

A. You're putting words in my mouth. I said the width of that fo'c's'le was about the same as her amidships. She didn't curve in much.

Q. And the capstan was only twelve feet forward of the break of the fo'c's'le?

A. I don't know; it was [1858—1025] near.

Q. That's your best judgment?

A. That's my best judgment.

Q. Do you remember the height of the bulwarks on the main deck? A. Yes, approximately.

Q. How high?

A. (Witness indicates point on chest.)

Q. About five feet? A. What's this?

Q. Let's measure it and see. You look at that tape measure. Is that right—four feet and eight inches?

A. I should say to the best of my judgment that is about it.

Q. You have a tape measure to that point I've indicated as four feet eight inches?

A. That's about it. I only judge by looking over the bulwarks they would come to about that.

Q. Those were solid, were they not?

A. Those were solid with the exception of the chocks in them.

Q. Where were those chocks, referring to the per-

(Testimony of Frederick C. Miller.)

pendicular? A. Quite near the bottom.

Q. Almost below? A. Very near.

Q. That's where chocks are always located?

A. Very nearly.

Q. An inch or two? A. More than that.

Q. Three or four?

A. Six or eight inches from the bottom. The chock would be six or eight inches above.

Q. About six or eight inches above on the—

A. Main deck.

Q. And you mean to say, do you, Captain Miller, that standing on the fo'c's'le deck you could not only see the "Arcona's" lines, but you could also see them dragging down practically slack in the water along the side of the "Celtic Chief"?

A. That is what I mean to [1859—1026] say, with the exception that on the starboard side of the fo'c's'le deck we could see the starboard line and I think my anchor on the other.

Q. You couldn't see that from the capstan bars?

A. I don't remember going on, working the capstan.

Q. And you then could stand by the capstan bars and make that same observation?

A. I didn't do it.

Q. Do you think so according to your best judgment?

A. I think a man could, as he went around, he could see.

Q. You feel pretty sure of that?

A. I think the one who was on the upper end of

(Testimony of Frederick C. Miller.)

those bars could see them.

Q. You were around on that fo'c's'le deck and the rail? A. I was.

Q. So that you are able to judge pretty well?

A. Fairly well.

Q. What time of Wednesday was it that you first used the "Celtic Chief's" steam winch or donkey-engine? A. What time Wednesday?

Q. Yes. A. Oh, we used it in the afternoon.

Q. About what time?

A. I can't tell you. We used it two or three times at intervals.

Q. How long did you use it the first time you used it?

A. I don't think we used that winch over—I think the longest we had it was an hour or so. From half an hour to an hour. We didn't have it continuously or we didn't use it continuously.

Q. That was Wednesday morning; once or twice?

A. We used it on Wednesday.

Q. Did you use it Wednesday afternoon?

A. I'm not sure we used it Wednesday afternoon; I'm not sure, but I think we did.

Q. How many times?

A. I don't remember, because we had difficulty in getting it. That was one of the [1860—1927] difficulties we had on board of that boat.

Q. You don't think of a time when you used it Wednesday?

A. I know for a matter of fact we used it after dusk.

Q. I'm asking you about Wednesday afternoon.

(Testimony of Frederick C. Miller.)

A. I think we used it. I'm not certain.

Q. More than once?

A. We may have used it more than once. I don't know.

Q. You have no idea?

A. I don't remember. My remembrance is that we used it once or twice and then it was taken from us. I remember once they used it in connection with the Inter-Island boats discharging and it was taken from us. Captain Henry stopped us.

Q. How many times did you use it Wednesday night after dusk?

A. Only to the time, to my remembrance once after dusk Wednesday night.

Q. And about what time was that?

A. I should say, if I remember right, when we first started to heave the slack on that winch, that was somewhere between eight and nine o'clock, if I remember right. I know I gave the donkey-man some money, the donkey-boiler man, to get steam up for me and that was I remember somewhere about nine o'clock.

Q. That's the time you first made any special pull is it?

A. Somewhere between eight and nine o'clock is when I think were—we stopped pulling.

Q. Before that you hadn't been pulling any at all?

A. Yes, we had, in the afternoon. So that you'll understand this, Mr. Olson, we hove and hove and got taut.

Q. About what time was that?

A. We hove taut first on the hawser and then

(Testimony of Frederick C. Miller.)

afterwards we gave it another good heave.

Q. Can't you tell me what time that was?

A. It was late in the afternoon.

Q. Late in the afternoon? A. Possibly.

Q. You don't know?

A. I don't know. [1861—1028]

Monday, August 28, 1911.

Q. Captain Miller, have you found the voucher which was given to you when you paid for the anchor and lines and gear and so forth that you purchased from Captain Medcalfe?

A. I have not. Our bookkeeper is looking through the office for it.

Q. They are still looking for it?

A. Yes. We'll have our bookkeeper here that kept our books at that time, kept our books subsequent to that. I think Judge Weaver intends to have him here.

Q. That's not what I want so far as your testimony is concerned, whether or not Mr Vannatta is going to testify. What I wish is to have the voucher to which I have referred produced by you personally on the witness-stand.

A. If it's obtainable we'll produce it.

Q. Have you looked for that voucher since you were last on the stand?

A. I haven't had much time yet.

Q. You are not prepared to say whether or not such a voucher was given to you any more positively than you testified last time?

A. I'm not positive about any voucher.

Q. And you still say that you don't know whether

(Testimony of Frederick C. Miller.)

or not a voucher, you received a voucher or that you paid the sum of about \$2,300.00 for that anchor and gear as shown by the voucher?

A. No, I didn't pay any \$2,300.00. If I remember rightly, he had money to pay me.

Q. For what?

A. They had money to pay me for picking up anchors, for assisting Medcalfe for what he was pleased to call expert services, and if I remember right the balance of debt was in my favor. I don't think I paid Medcalfe any money, and as a matter of fact I had no transaction with Hackfeld at all.

Q. You are sure of that?

A. I had no transaction with [1862—1029] Hackfeld. It was in Hackfeld's.

Q. You've never had a single money transaction with Hackfeld & Co. bearing upon or connected with the "Manchuria" matter?

A. I did not. I had with Medcalfe.

Q. Not even in connection with the matter of picking up the anchors with the "James Makee"?

A. No. That was Medcalfe.

Q. Are you prepared to say that? A. I am.

Q. You are sure of that?

A. I'm sure of that.

Q. Are you sure that that sum was not allowed to you in the settlement of the anchor and gear account which took place then?

A. If I remember right, Medcalfe had Klabbaum to come out and bring him in some money, and if I remember right he paid me money and I didn't pay him, but it was with Medcalfe direct. Now, how he

(Testimony of Frederick C. Miller.)

arranged his business with the house of Hackfeld & Co., that I don't know, but all my business in that connection was directly and solely with Medcalfe.

Q. How long preceding the salvage operations of the "Celtic Chief" was it that that big anchor had been used by you? How long previous to that time had it been you had used that big anchor?

A. I don't think I'd used that until it was used on the "Celtic Chief."

Q. Where had that anchor been for the week or two preceding, before that time you used it on the "Celtic Chief"?

A. In a yard belonging to the Dowsett Estate which I had under rental, past the oil tanks.

Q. It was in a yard which you had leased?

A. Yes, right past the Iwilei oil tanks.

Q. Where were the appliances other than the anchor which you used in connection with that anchor? A. In the same yard. [1863—1030]

Q. Prior to the time that you actually used that anchor on the "Celtic Chief"? A. Same place.

Q. You had them all there?

A. Practically all; some on the "Makee."

Q. You had all of the appliances which you used for a week or so at least prior to the time that the "Celtic Chief" went on the reef?

A. I didn't have them all there.

Q. Did you have them all? A. I had them all.

Q. Ready for use? A. Ready for use.

Q. They could have been used at any time?

A. Yes.

Q. You could have used them at a moment's notice?

(Testimony of Frederick C. Miller.)

A. No.

Q. Do you think you were able to get them out and ready to use them at a moment's notice?

A. Yes, that's what I kept them for.

Q. In other words, there was nothing to prevent your getting them out on a minute's notice?

A. Not a single thing except the captain's orders.

Q. And Pilot Macaulay?

A. I didn't take Pilot Macaulay's orders. I took orders, as far as the authorization of me to do anything—I didn't look to him as the man in command.

Q. You didn't regard Pilot Macaulay as having anything to do especially with the matter as far as you were concerned?

A. No, sir.

Q. But you had this conversation with Captain Henry and Pilot Macaulay, did you not?

A. I'm giving you now—that is the best of my recollection. When I first went aboard the ship I think Macaulay was present. When we talked of leaving the ship on Tuesday morning, Macaulay I think was asleep. This was about half-past two Tuesday morning, when Captain Henry wanted us to discharge. [1864—1031]

Q. Why did you then say on direct testimony that you had this conversation with Captain Henry and Pilot Macaulay?

A. I never did say that Tuesday morning when I had that talk Pilot Macaul was there. I couldn't have said it because he was not there and I couldn't have said a thing that wasn't so.

Q. So that this conversation that you spoke of which you had with Captain Henry on Tuesday

(Testimony of Frederick C. Miller.)

morning was with Captain Henry alone, was it?

A. On Tuesday morning about half-past three when I left the ship.

Q. Nobody else was there except you and Captain Henry? A. I don't remember of anyone else.

Q. Was there anyone else?

A. Our men was around there because I was standing right at the rail.

Q. What men were these?

A. Oh, I don't remember. I had over a hundred men there.

Q. But there was no one of those men that you can now name? A. Not that I can remember.

Q. In other words, you are the only person in the Territory of Hawaii, in so far as you know, who can testify as to what was said between you and Captain Henry in this conversation? A. Quite so.

Q. In other words, there's no other witness in the Territory of Hawaii? A. As far as I know—

Q. Which could testify either in favor or against. You have no record of that conversation?

A. At that particular conversation none that I can recollect.

Q. Very much like the Medcalfe conversation that you have testified to? A. Similar.

Q. You used the same winch of the "Celtic Chief" for the purpose of heaving in on your anchor tackles— A. We did.

Q. Just a moment. Whenever you could get that winch [1865—1032] did you? A. We did.

Q. Why did you want to use the winch?

A. Save our men.

(Testimony of Frederick C. Miller.)

Q. Was that the only reason?

A. That's the only reason.

Q. Simply to enable them to get a rest?

A. Well, it saved our men. If I used steam I wasn't using man power.

Q. You had the men there? A. Yes.

Q. What was the reason why you used the winch instead of the men?

A. Save our men. I've already answered.

Q. Why did you want to save your men?

A. Might want them later on. I didn't want them played out.

Q. Why wouldn't you use man power if you could get steam? A. Why wouldn't I?

Q. Yes.

A. Steam power we always considered it a little more effectual. The men had been working all through the night.

Q. There were only twenty-four men working at a time on the capstan?

A. Yes, but the tackles required looking after.

Q. How many men on the tackles?

A. I don't remember now, Mr. Olson, how many men on the tackles.

Q. No idea?

A. We had twenty-four men on the capstan and we had relieves. That would make forty-eight and we had twenty or thirty men approximately.

Q. Twenty or thirty men required on those tackles? A. Yes.

Q. How often would they fleet the tackles?

A. The third luff quite frequently.

(Testimony of Frederick C. Miller.)

Q. How often?

A. I don't know. When [1865½—1033] you're on a ship like that you don't figure two or three or a dozen men. You put on as many as you can get or need or you think you need.

Q. Whether they're necessary or not?

A. I also consider it necessary to have plenty of men on a salvage ship.

Q. When did you first come out to the "Celtic Chief" on Wednesday?

A. On Wednesday; I went that Tuesday night. I never left her.

Q. Until she came off? A. Until she came off.

Q. Were you on the "Celtic Chief" all this time?

A. I went aboard of her Wednesday morning. I went out to her Tuesday afternoon just about dusk.

Q. You went aboard of her Wednesday morning?

A. I went aboard of her Wednesday morning.

Q. And you stayed aboard until she came off Wednesday night? A. Yes, and after that too.

Q. Who actually performed the work of putting in the hawse-pipes supplied you by the Honolulu Iron Works which were installed in the "James Makee" as you have testified?

A. Who actually did it?

Q. Who did the work? A. I don't remember.

Q. Did the Honolulu Iron Works have anything to do with it?

A. I don't think they did. I think they only supplied the casing and the long bolts.

Q. Were there any additional hawse-pipes than those you have already testified to that were installed in the "James Makee" within say a year on either

(Testimony of Frederick C. Miller.)

side of the time that you spoke of?

A. No, there was none.

Q. You say that was during 1906 or 1907?

A. There has only been the one set of hawse-pipes installed in the "James Makee" since I have owned her.

Q. Any way, these hawse-pipes from the Honolulu Iron Works, you ordered them as hawse-pipes to be installed in the "James [1866—1034] Makee"?

A. I don't know whether I ordered them to be installed in the "James Makee."

Q. You ordered these hawse-pipes for the "James Makee"? A. If I remember—

Q. But you did, did you not?

A. I don't know whether I mentioned that they were for the "James Makee."

Q. Do you know whether or not you installed any hawse-pipes in the "Concord" within, say, a year and a half before that?

A. I don't remember of putting in hawse-pipes in the "Concord."

Q. Do you know whether or not you did? You know the "Concord" pretty well?

A. I'm telling you I don't think I did.

Q. You're sure of it?

A. No, I tell you the best I know how.

Q. You know pretty well what's been done to the "Concord" during the last five or six years?

A. Since I have owned her.

Q. Has she had any hawse-pipes put in her during that time? A. I don't think she has.

Q. What about the "Kaimiloa"?

(Testimony of Frederick C. Miller.)

A. I don't remember whether we put any in the "Kaimiloa."

Q. Did you do so? Do you remember of any having been put in the "Kaimiloa"?

A. I don't remember of any hawse-pipes being put in.

Q. You think, do you not, that none have been put in the "Kaimiloa" during that time?

A. I think none have.

Q. Have any hawse-pipes been put into the "Mokolii" during that same period of time?

A. I think so.

Q. Who supplied them?

A. I don't remember of buying hawse-pipes from the Honolulu Iron Works.

Q. Where were those purchased for the "Mokolii"?

A. I don't know and I'm not certain that I did.
[1867—1035]

Q. Where would it have been, as far as you can remember?

A. If any hawse-pipes was put into her since I owned her it must have been previous to two years ago.

Q. Would it have been about the same time you had them installed in the "James Makee"?

A. I don't know.

Q. Would they be smaller?

A. Infinitely smaller.

Q. What about any other boats that you had?

A. I don't remember of any except the "Lehua."

Q. Did you put hawse-pipes into her and when?

(Testimony of Frederick C. Miller.)

A. Oh, that was long before.

Q. Long before you purchased the "James Makee"?

A. Long before I owned the "James Makee."

Q. Then those are the only ones that you can remember?

A. The only ones I can remember about that time is those we put in the "James Makee."

Q. Those are the only ones that you remember?

A. Those are the only ones that I remember.

Q. How large are they?

A. I can't remember the size now but they are there to be seen.

Q. How many hawse-pipes were put in the "Mokolii"? A. I'm not sure.

Q. That was a part of the rebuilding of the whole vessel? A. Part of it.

Q. I'm asking if that isn't—

A. If we put them in it would be part of it.

Q. Who had the contract for the rebuilding of the "Makee"?

A. No contract at all. We did it; day's labor.

Q. You did it by day's labor? A. Yes.

Q. If there were hawse-pipes, you say, supplied for the "Mokolii," it was a part of that job?

A. Yes.

Q. Well, do you know whether or not there were hawse-pipes [1868—1036] installed as a part of that job?

A. No, I can't tell you if that was put in at that time.

Q. So far as you know no hawse-pipes may have

(Testimony of Frederick C. Miller.)

been put in at all?

A. I wouldn't swear that they had. I wouldn't swear that they hadn't.

Q. Would your accounts show what was done to the "Mokolii"? A. No.

Q. Why not?

A. I don't think a very good system of accounts was kept.

Q. Was that since the Miller Salvage Company was organized that the "Mokolii" was rebuilt?

A. I don't remember whether she was rebuilt before or after.

Q. Have no idea?

A. Yes; I have an idea that it was done before, but I'm not certain. I bought her as a hulk personally, I recall it.

Q. And you rebuilt it personally?

A. And I rebuilt it. And then I bought the engines to put into her.

Q. Isn't it the fact that rebuilding of the "Mokolii" took place prior to your —— of the "James Makee"?

A. I think so. I am not certain, but I think so.

Q. You're pretty certain that that's so?

A. I disremember, but I think I rebuilt her that early. I don't know whether I did or not. I wouldn't say.

Q. You have absolutely no recollection about it?

A. About just—I only remember when I bought the "Makee" from the "Manchuria" question, and I don't remember when I rebuilt the "Mokolii" or whether I purchased it prior to the "James Makee,"

(Testimony of Frederick C. Miller.)

but when I don't recollect.

Q. From whom did you buy her?

A. From Young Brothers.

Q. And how long after you purchased her did you rebuild her?

A. Oh, it must have been a year or two.

Q. You waited a year or two after you purchased the "Mokolii"?

A. Yes, I rebuilt her. [1869—1037]

Q. Which was the first boat that you purchased after you came down to the Islands?

A. The steamer "Lehua."

Q. Which? A. The steamer "Lehua."

Q. How long after you came down was it that you purchased her?

A. I think about, say, two years—year and a half.

Q. You came down here in 1904?

A. Yes. No, about 1904.

Q. Early part or latter part of the year?

A. I don't remember; I think in March. If I remember right, it was March.

Q. And you think that you bought the "Mokolii" about two years later?

A. I think so. I don't know.

Q. That would be about the early part of 1906; is that right?

A. Yes, if it was two years later that would be right.

Q. I'm asking for your recollection.

A. I don't know when I bought the "Lehua."

Q. Then that was the next boat that you purchased after the "Lehua"?

(Testimony of Frederick C. Miller.)

A. The next boat after her I think was the "Mokolii."

Q. Now, about how long after you purchased the "Lehua" was it that you purchased the "Mokolii"?

A. I think I can give you that if it's important.

Q. You can get me when it was that the "Mokolii" was purchased?

A. I think I can. I think we have a bill of sale somewhere.

Q. Can you ascertain that sufficiently, to satisfy your own mind, from the Young Brothers?

A. They may remember it.

Q. You have absolutely no recollection whether it was a short time or a long time after you purchased the "Lehua"?

A. No, I can't remember. I've bought and owned so many [1870—1038] boats I can't remember the days I bought them or sold them.

Q. What was the next boat that you purchased after you purchased the "Mokolii"?

A. The "Mokolii"? I think the "Elehu." No, I think the "James Makee." No, the "James Makee" came first, I think, then the "Elehu."

Q. And you think it was a year or two after you purchased the "Makee" that you rebuilt her?

A. Yes.

Q. Then wasn't it, as a matter of fact, after you reconstructed the "James Makee" by installing this windlass? A. It may have been.

Q. Wasn't it, as a matter of fact, after that that you rebuilt the "Mokolii"?

A. It may have been. I don't say it was or wasn't.

(Testimony of Frederick C. Miller.)

Q. You have undertaken to say that you thought that the "Mokolii" was rebuilt a year or two after you purchased her? A. I think so.

Q. And you say that the "Eehua," you think, was purchased about two years after you came down to the Islands? A. I think so.

Q. Then it must have been somewhere in 1906, the early part of 1906, that you purchased the "Mokolii"? A. Yes.

Q. And if you rebuilt her it must have been somewhere in 1907 that you rebuilt her?

A. If those dates are right it must have been.

Q. You've given them as your best recollection? Now, according to your recollection, the "Mokolii" was built sometime after the installation of this windlass and these hawse-pipes in the "James Makee"?

A. I think it was.

Recess.

Mr. OLSON.—I have no more questions to ask except with [1871—1039] reference to the voucher given to Captain Miller for the settlement of the Medcalfe anchor and appliances account and also the matter concerning which I have just asked Captain Miller, when he purchased the "Mokolii," and I think we can go on with the cross-examination.

Cross-examination of F. C. MILLER on Behalf of
Libellants Inter-Island Steam Navigation Co.
and Matson Navigation Company.

Mr. WARREN.—Q. Captain, when you went out to the "Celtic Chief" in the neighborhood of seven o'clock on Monday morning, at which time you have said the "Intrepid" and "Huki Huki" were pulling,

(Testimony of Frederick C. Miller.)

what was the condition of the "Intrepid's" line at that time?

A. The "Intrepid's" line was a line very near astern which ran in on the "Celtic Chief's" starboard stern chock and she was very near astern and she was pulling, I judge, all she could, and it was taut. Her line was taut and her propeller was churning up the water.

Q. That was her starboard quarter chock?

A. Starboard stern chock on the "Celtic Chief." She had two stern chocks—one on the port side and one on the starboard side.

Q. In what direction was the "Intrepid" pulling?

A. Very nearly astern.

Q. More over to one side than the other?

A. If anything, a little to the starboard quarter, if anything.

Q. Now, at the time you went out there and had the conversation with the captain of the ship as to lightering, the captain said to you that the "Intrepid" and "Huki Huki" would hold the "Celtic Chief" while you would lighter her?

A. Both Pilot Macaulay and Captain Henry were there, and there was considerable discussion and they both laughed and both said when I asked them, "What's going to hold your ship when [1872—1040] I take out the cargo?" Both said, "Well, the 'Intrepid' and the 'Huki Huki' would."

Q. How did those vessels compare as to size?

A. There would be practically no comparison, because one is a gasoline launch and the other is a steam tug.

(Testimony of Frederick C. Miller.)

Q. In that conversation as to the "Intrepid" and "Huki Huki" holding the "Celtic Chief," did you in that conversation make a suggestion about your own anchor? A. About my own anchor?

Q. Yes. A. I did.

Q. And offer to put it out?

A. I offered them to put it out and they thought that's the first thing that should be done.

Q. And you didn't believe the "Intrepid" and the "Huki Huki" couldn't hold her?

A. The "Huki Huki" was a negligible quantity on a ship of that size. The "Intrepid" I don't think would hold her.

Q. Why not?

A. I don't think the "Intrepid" had power enough.

Q. What was the condition prevailing as to the ship?

A. The ship was thumping and there was a heavy swell running in and she could have done so, but I doubt—it's a question I wouldn't be prepared to say, but I wouldn't trust her.

Q. You don't think so at that time?

A. I don't think so at that time; no, sir.

Q. But you accepted the judgment of the captain and agreed to lighter. That is, you accepted his judgment and took his orders to bring out the lighters?

A. I took his orders because he wouldn't listen to any other thing. After that some one of them said they expected the Inter-Island boats to come out and they would help hold her from going ashore. They weren't there but they was expected to be out. I

(Testimony of Frederick C. Miller.)

don't remember just now, but I think [1873—1041] they saw them coming out of the harbor.

Q. In that connection, how far on the reef do you think the "Celtic Chief" was about seven o'clock that morning?

A. The best of my judgment, Mr. Warren, that morning that ship was to my judgment, at least, say, from her bow aft, say one quarter on the reef. One quarter to a half.

Q. Of her length?

A. Of her length. One-quarter or one-half, I couldn't tell you. To the best of my judgment.

Q. And what time did you take your soundings, Captain?

A. I took the soundings, I think, when we came back. I'm not sure whether I took them then or when we came back.

Q. You took them either when you arrived or as soon as you got back? A. Yes.

Q. When you came back you brought with you the "Concord"? A. Yes.

Q. And made her fast before taking soundings?

A. Yes, I think so.

Q. What time did the "Makee" get out? How soon after?

A. The "Makee" came out either that afternoon or that evening.

Q. Did you take the soundings before the "Makee" came out?

A. Yes, I took soundings. I'm sure I took two or three soundings there at different times, but—

Q. Now, referring to the first of those, as near as you can.

(Testimony of Frederick C. Miller.)

A. As near as I can remember, the first soundings I took was when I came back with the "Concord," but I'm not certain as to that.

Q. And what did those soundings indicate?

A. Those soundings indicated to me that the ship was on forward and just how far aft I couldn't tell.

Q. Now, in your direct testimony you said there might have been a difference of possibly two feet between the bow and the stern, with respect to what soundings was that testimony? The first one or a later one? [1874—1042]

A. I think that was the first soundings. We had difficulty, so that you will understand my hesitancy in answering this; as you'll understand, Mr. Warren, in sounding that ship all day Monday and Monday night there was a moderate swell running and when that swell was running it was difficult to see what those soundings were, and also we noticed that the *water less* on that bow, and our man and myself, that is our judgment. Just how much her roadway was out of the water, on account of this swell running, I can't tell.

Q. But your recollection of your first sounding is that there was approximately two feet difference?

A. About two foot difference.

Q. Between the soundings at her bow and the soundings at her stern?

A. It might have been. There might have been a little more, there might have been a little less; I don't know. It's difficult to sound around her to get the exact depth. You had to use your judgment a great deal between the swells.

(Testimony of Frederick C. Miller.)

Q. Don't you think it was a greater distance than two feet—three feet if she was one foot?

A. No, she was half her length.

Q. What kind of a bottom as to grade?

A. It's an uneven bottom and one's lead line may drop into a *puka* in the bottom.

Q. Do you remember at all what the soundings were in feet?

A. I don't recollect just now. I've since regretted that I didn't jot them right down in a memorandum-book.

Q. Do you know the draft of the ship?

A. I could tell you from memory. If I remember right, her load water line—I'm giving you from memory—was about twenty-two feet.

Q. You saw that at the bow?

A. At the bow and we steamed around her in the launch after we made examination on her deck.

[1875—1043]

Mr. OLSON.—With your permission I'll ask that question. This says that the "Mokolii" was purchased by you in November, 1906. What records are those?

A. Receipt or bill of sale from Young Brothers to me personally.

Mr. WARREN.—Q. You say that on Monday morning her stern was rising and falling?

A. Her stern, well, yes, the stern and the ship was thumping—was rising and falling.

Q. Bumping on the reef?

A. Bumping on the reef.

Q. Now, where was that bumping, as near as you can say? What part of the ship?

(Testimony of Frederick C. Miller.)

A. To the best of my judgment, at the time the heaviest bump was after she seemed to be striking after. That is, in other words, her bow seemed to be fast more firmly ashore, than her stern. That was my judgment.

Q. Her bow was fixed?

A. Her bow was more fixed than the stern. I could feel the bump aft. For instance, I would walk forward and wait for a bump two or three times, then I'd go aft and wait for a bump two or three times and I could feel it more distinctly aft.

Q. About what do you think her rise and fall was?

A. Her rise and fall was a good three feet; good three foot.

Q. There was a three or four foot swell there, all through—I don't mean from the ship to the bottom. I mean the rise and fall of the ship in the swell?

A. Oh, a good three foot. She was thumping heavy.

Q. And how frequently?

A. Quite frequently. Those swells would come in probably three at a time, then there'd be a little interval, then they'd come in. It was more than a swell that was coming in there. She'd come in so that—it wouldn't make my teeth chatter, but it was heavy.

Q. What kind of a bottom did the "Celtic Chief" have, do you know? A. Single-bottom. [1876—1044]

Q. Iron?

A. Iron construction, single-bottom ship.

Q. Do you know the depth of the keel?

A. No, I do not. Ships of that type usually have

(Testimony of Frederick C. Miller.)

from eight to twelve inches.

Q. You don't think that the "Celtic Chief" worked herself into a bed on the reef?

A. No, sir.

Q. Now, if you were told that an examination of her indicated dents on her bilges or her quarters, wouldn't that indicate to your mind that her keel had worked down into the reef?

A. I know perfectly well that that was what occurred, but that don't—a boat and keel may have gone into the reef but that doesn't alter the fact that a ship—I expect the keel would go into the reef and I wouldn't be surprised. I didn't see the ship's bottom if the bilge was dented and the only surprise was that it wasn't fractured there.

Q. Wouldn't that indicate that she had, to some extent, made a bed?

A. I don't understand that the ship's keel being in the coral is a bed for the ship. A bed for the ship would take her all in, say, for about three or four feet up on her bilges.

Q. Now, then, Captain, with a ship ashore in the way the "Celtic Chief" was on Monday morning and say on Tuesday morning, how was her stern on Tuesday morning?

A. Her stern on Tuesday morning?

Q. Yes.

A. Tuesday evening—Tuesday morning when I left her she had gone in and Tuesday evening, I judge then that she was in. After Tuesday morning when I left the ship she had gone in so much. I called Captain Henry's attention to it then. The ship was practically her whole length.

(Testimony of Frederick C. Miller.)

Q. Was there any working of her stern?

A. Not so much.

Q. Was there any?

A. There was no—at no time when I was aboard that ship, at no time when she didn't thump.

Q. With a ship on the reef as she was on Monday and up to Tuesday [1877—1045] morning, under the conditions which prevailed then, except as to pulling agencies, what can you say as to whether or not there was danger?

Mr. OLSON.—Object to the question on the ground it is incompetent, irrelevant, and immaterial, and furthermore it is calling for a conclusion of the witness and improper cross-examination.

The COURT.—Objection overruled.

Mr. WARREN.—I withdraw the question. Captain, you have testified on direct examination that you considered the "Celtic Chief" in a position of danger? A. I did.

Q. Now, what danger do you mean?

A. I mean this danger, Mr. Warren, from the time that that ship's bow touched that reef until she floated off, there was the most imminent danger of her being bilged, and if she hadn't been a steel, iron ship, she would have been bilged.

Mr. OLSON.—Move to strike the last statement of the witness on the ground it is a conclusion of the witness without a proper foundation being laid.

The COURT.—It wouldn't be fair to do it.

Mr. WARREN.—I don't object to that last part being stricken. How could she become bilged?

A. By swinging broadside on to the reef or by go-

(Testimony of Frederick C. Miller.)

ing further on which she did.

Q. What conditions were there which would likely throw, force her broadside?

A. The fact of her being bow-on to the reef, and I never knew a ship that went broadside on to the reef when her stern was held.

Q. By what force?

A. The force of the swell, the wind or the current. No boat will hold themselves right straight on the reef. She'll swing one way or the other. The wind, the sea, or the current will bilge her too.

Q. Just what do you mean by bilge—being bilged?

A. Being bilged? [1878—1046]

Q. Yes.

A. By being bilged I mean a hole punctured in her bottom and that usually causes laying on her bilge; therefore, we speak of it as bilging. Bilging usually happens along the bottom of the ship anywhere say from her —— up to the stern of her bilge.

Q. Would not her keel protect her from being bilged? A. No.

Q. Why not?

A. I'd have to show that with a diagram. Now, if the ship swings around broadside, one side or the other will be in shallow water. That naturally follows. Her side, then, will strike breaking rock or coral.

Q. Which side?

A. Which happens to be the shore side, the leaking side, the inshore side; that's the side that always bilges as a rule.

Q. In your judgment, under conditions prevailing

(Testimony of Frederick C. Miller.)

was there any danger of the "Celtic Chief" going broadside? A. There was.

Q. How long do you think it would have taken in the absence of any agencies pulling on her under the conditions which prevailed?

Mr. OLSON.—I object to the question on the ground no foundation has been laid, asking for a conclusion of the witness; furthermore, the witness is not qualified to answer.

The COURT.—I sustain the objection.

Q. Did you make any examination of the bottom to determine whether or not there were lava boulders, as you say? A. I did.

Q. When?

A. I made it when we was out there in the launch. We steamed around there in the launch first and then afterwards I took a water-glass—what we call a water-glass, a container with a glass in the bottom—and looked at the bottom and as near as I could see it was coral and lava rocks.

Q. In your judgment, was there any real danger of the "Celtic [1879—1047] Chief" going broadside in view of the fact that the "Intrepid" had hold of her?

A. Yes; I don't think the "Intrepid" could have held that boat against that swell. She may have done it, but I don't think so.

Q. Do you mean from going straight on or broadside?

A. I think that she would have gone—she did go—I know for a fact that she did go straight in. Now, if the "Intrepid" could have held her at all she would

(Testimony of Frederick C. Miller.)

have held her from going straight in. She didn't do that.

Q. After the "Mauna Kea" took hold and the "Mikahala," they could hold her?

A. From what?

Q. From being, from going broadside on?

A. I think that there was power enough when the Inter-Island boats got there to keep her from being bilged.

Q. Now, I understood you to say, Captain, that one of your boats was made fast to the "Celtic Chief" by tying to her davit. Now, which side of the ship was that and which boat?

A. Well, the "Concord" was made fast on the port side. First, let me answer your question. It was the port davit that was torn out and the "Concord" was made fast on the port side and the "James Makee" was made fast to the "Celtic Chief."

Q. Which of these two boats, the "Concord" or the "Makee," had that davit?

A. I don't remember which of those boats. We snapped our lines several times around those davits once and worked all the time, the men watching the boats.

Q. Now, when you left the "Celtic Chief" with much less, with a lighter-load of cargo, three or four o'clock on Tuesday morning, you say the captain of the "Celtic Chief" wanted you to come right back and continue lightering? A. Yes.

Q. And you told him at that time that he'd lose the ship if he continued?

A. I told him it was suicidal and he'd lose his ship.

(Testimony of Frederick C. Miller.)

Q. And he still told you to come back? [1880—1048]

A. He still told me to come back with the boats to load them up.

Q. When you did leave what was the actual understanding? Were you to come back or were you not to do more lightering?

A. I think that when I left there we had, I'm not sure, but what I told him that I would come back. What was in my mind at that time was to bring back a boat and put our anchor out and haul that taut and then bring back one or two boats and lighten up. It would have been good practice.

Q. As far as you can remember, though, you really did agree to come back with that boat?

A. I don't remember. I had this discussion at the rail and we sort of parted, I wouldn't say good friends, but he insisted upon—the fact of the matter was he insisted upon lightering and I insisted upon getting an anchor down to hold.

Q. I understand you on your direct examination, you told him he'd lose his ship and you'd see that he'd lose his license? A. I told him that.

Q. Did you agree that you'd come back and take more cargo out? A. I think we agreed.

Q. As a matter of fact, when you went on board Wednesday morning he was angry that you hadn't come back? A. He was angry.

Q. It's more than probable that you had agreed.

A. Yes, I think it's more than probable.

Q. Did you talk with him at that time about your bringing out an anchor after you came back?

A. I think I told him that I wouldn't take any

(Testimony of Frederick C. Miller.)

more cargo out of her until an anchor was laid astern.

Q. That was an absolute condition of your coming back?

A. I'm not sure, but the fact stands for itself when I did come back I brought it back.

Q. I'm referring to the understanding which you really had [1881—1049] at the time you left.

A. The understanding was that I would come back whether he was *will* for us to put the anchor down and trust to my judgment on that point. I don't think he saw because he was excited over his lightering.

Q. And you didn't ever after that send any boat back to do any more lightering?

A. The first boat that we brought back was the "James Makee" with our anchor and gear aboard her.

Q. You hadn't unloaded the "Concord" by that time?

A. We had not unloaded the "Concord," I don't think, nor the "Kaimiloa."

Q. Why not? Hadn't you had time to do that?

A. It took us all that day to get our gear down. We was at work from the time we got back until night our gear had been on the dock and on board the "Makee."

Q. How many men did it take to do that?

A. It was so large that on the Hackfeld wharf at that time was a gate and our big anchor wouldn't go through so we had to chop down the gate.

Q. It was a matter of delay and difficulty rather than number of men?

A. No, we had a number of men handling the gear.

(Testimony of Frederick C. Miller.)

Q. You would not attempt to put the anchor on board by men?

A. By golly, no. I'm not prepared to say but what some of the men weren't unloading the "Concord." I gave my attention to getting the gear aboard.

Q. Had you given any orders as to the "Concord" being unloaded?

A. If I remember right this man Ito had a number of his Japs unloading the "Concord," but I'm not sure.

Q. Well, you had given orders to that effect?

A. When I came in Tuesday morning the orders were to unload the two boats.

Q. And then do what?

A. I didn't pay no attention to [1882—1050] what them men was doing. I was paying attention to that large donkey that they've got on a big heavy truck with a windlass. As a matter of fact, we had to discharge the "Makee" by that.

Q. Did you give any orders for the "Concord" to come out again after she was unloaded?

A. I don't remember whether I did or not. We must have unloaded the "Makee" that day because she had no cargo in her but came in Tuesday morning, and she was out Tuesday night that our gear came aboard, so she must have been unloaded that day.

Q. You could have continued to lighter with the "Concord" and the "Kaimiloa" if you had unloaded them and if they had gone, taking your anchor out on the "Makee"?

A. We would have been in a position sometime on

(Testimony of Frederick C. Miller.)

Tuesday night to have done that.

Q. But you didn't attempt to do that?

A. I didn't attempt to do that without going out first with our anchor. That was the first thing, the sole thing, that I gave my attention to.

Q. How many men did you have altogether?

A. We had, as near as I can remember, about 124 men altogether, employed on that boat, on the ship, and on the—

Q. On the boats? How many of them do you think were employed with the anchor and donkey?

A. There must have been about forty or fifty that afternoon.

Q. That would leave the rest to work on the "Concord"?

A. Well, there was forty or fifty for our gear. I'm only telling you now the best I remember. They must have been unloading the cargo on the "Concord."

Q. As far as you know, there was no work done in connection with the unloading of the "Concord"?

A. I wouldn't say with a certainty that the men worked on the "Concord," and the only reason I know they worked on the "Makee" is that the "Makee" was empty so we could put our gear in. [1883—1051]

Q. So with the steamers pulling it would have been safe for you to have continued lightering it with your anchor out, you could have continued lightering?

A. Mr. Warren, I'll answer you the question, if you don't mind, this way: The facts are these: first,

(Testimony of Frederick C. Miller.)

I called Captain Henry's attention to it that morning and said, "You had the 'Mauna Kea' here and she's pulled as I never saw a steamer pull before to break a twelve-inch hawser and dented your mizzenmast. She had at the same time helping her, the 'Intrepid' and the 'Mikahala,' and I think the 'Helene' and 'Likelike.' I'm not sure, but I think so. Now, you didn't come off when the ships were pulling. On the contrary, she's further ashore than she was. What's the use of fooling, then?"

Q. If you had put out your anchor from the beginning you could have continued lightering?

A. Yes.

Q. And you consider your anchor would have made it safe? A. That's what we understand.

Q. Still, you don't recall having given any orders to have the "Concord" come out?

A. We had our launches standing by to carry orders backwards and forwards as we needed it.

Q. I understand you to say that you dropped your big anchor off the port quarter of the "Celtic Chief" Tuesday night? A. Yes.

Q. At a considerable angle to port?

A. Yes, because I believed then, at least, that her stern could be worked around to port and get her off that way. That is, I believed that then and believe it now.

Q. Did you expect to do that with your anchor alone?

A. We expected to do that with our anchor alone.

Q. Assisted by anything else?

A. Yes, by the swell of the ocean.

(Testimony of Frederick C. Miller.)

Q. That was notwithstanding the fact that—and that was notwithstanding the fact that the Inter-Island steamers [1884—1052] were pulling?

A. They would help and they did help. Why, on Tuesday night they pulled like good fellows.

Q. Wouldn't their strain have much to do with this?

A. Yes, their strain would have helped—all strains were helps.

Q. If you had got her swung off with your line broadside, what would the "Celtic Chief" do?

A. Once—if we once started that ship, the Inter-Island boats would have taken her.

Q. Even then swinging her to broadside?

A. Excuse me—don't misunderstand me. I'm not taking her straight broadside, but I'm—this would be broadside, like that. I'm not taking that way because I never intended to do that. Say here is the "Celtic Chief" and here is our anchor. It is here I'm taking, this way. What I was figuring on, Mr. Warren, was this: there was a heavy swell running and it was directly astern or a little on this starboard quarter; there was more water here—the way I figured the swell would have helped me if I once could get her started. Having the anchor astern was a bad plan. I thought at the time, I still think, if I could move the ship this way that you start the ship, if you can once get her moving on her keel—

Q. Moving on her bed?

A. She wasn't in a bed. I'll put it another way. If you once sent the suction on the ship's bottom you've got the ship. A ship when she's ashore—we

(Testimony of Frederick C. Miller.)

call it suction, we sailors—a ship that's ashore she'll suck the bottom, she'll hold like a suction. If you can once break that suction and start her you would get your ship.

Q. Did you take any soundings when you dropped your anchor?

A. Yes, we took soundings there. We had nearly seven fathoms of water where we first dropped her. When we dropped it the second time, directly astern, we had six fathoms.

Q. You remember that very distinctly? [1885—1053]

A. I remember that very distinctly, about six fathoms of water the second time; the first time about seven.

Q. When did you take that sounding?

A. We took that sounding about dusk on Tuesday night.

Q. Was that before or after you dropped the anchor on Tuesday night?

A. If I remember right, it was either the "Like-like" or the "Helene" was the closest boat to us, and we worked around and got up close under her star-board quarter, knowing the formation of that reef as I do.

Q. If you were told that there was less water where you dropped your anchor the first time what would you say?

A. If I were told that I'd maintain the same assertion. There was more water where we dropped our anchor the first night because we sounded that. We sounded where we dropped it the second time and

(Testimony of Frederick C. Miller.)

there was more water where we dropped it the first time.

Q. About what time did you get out there on Tuesday night with your big anchor?

A. About; somewhere around about dusk. It wasn't night, dark. It wasn't dark.

Q. Around six o'clock?

A. I should say the best of my remembrance is about six o'clock.

Q. And how long did it take you to pick up the anchor in the morning?

A. Not long. I should say maybe half an hour, possibly.

Q. And you sounded on Tuesday night before you dropped your anchor?

A. I sounded on Tuesday night before I dropped my anchor.

Q. How many soundings?

A. We sounded three or four times in coming in around the Inter-Island boat.

Q. How many soundings did you take right at the first spot where you dropped your anchor?

A. When I went it was about six o'clock.

Q. You dropped your anchor Tuesday night?

A. About six o'clock. [1886—1054]

Q. Then you took your soundings about the same time.

A. Yes; we wanted to know how much there was there before we dropped our anchor.

Q. Did you take those soundings yourself?

A. I took those soundings, yes.

Q. Personally? A. Personally.

(Testimony of Frederick C. Miller.)

Q. You remember that very distinctly?

A. I remember taking those soundings myself.

Q. It was an uneven bottom there?

A. It was an uneven bottom.

Q. And there might be *pukas* within a short distance? A. Yes.

Q. Considerable distance?

A. Anyone might be, but there was an uneven bottom with these *pukas* and holes.

Q. Isn't it possible that you got your line in a hole there at that time?

A. It may have been possible.

Q. Now, about what hour did you drop your anchor next morning?

A. I would say about—I would say about nine o'clock. I would say my best recollection, a little bit later. I don't think it was much earlier because we used a good deal of time going from the "Celtic Chief" and having this buoy put over the anchor position. Then we used a good deal of time in manoeuvring through the Inter-Island boats and getting in position.

Q. You are sure about the time of dropping the anchor on Tuesday night? A. Yes.

Q. You personally supervised that whole thing?

A. Yes, I personally supervised the boat that night.

Q. You sent Captain Scott with the "Mokolii" in with the surf line to the "Celtic Chief," but you are sure that the anchor was dropped Tuesday night?

A. I'm sure that that anchor was dropped Tuesday night, Mr. Warren. I'm sure of sending Captain

(Testimony of Frederick C. Miller.)

Scott in with the surf line. There is a question in my mind—I'm telling you just what doubt rises in my mind. [1887—1055] I'm telling you the best I know how about this story of the big anchor with the "Makee's" anchor. I think we used the big anchor because we used the surf line.

Q. It couldn't have been dropped without your knowledge?

A. That big anchor wouldn't have been dropped without my knowledge.

Q. Only with your orders?

A. Only with my orders.

Q. They would have no reason for sending that surf line aboard?

A. They would have no reason for sending that surf line aboard without any anchor being dropped and that surf line attached.

Q. You went back from that vessel with the plan outlined in your mind to drop the anchor that night?

A. That's what I intended to do.

Q. As far as you know, that's what you did, Captain Miller?

A. That's what I did and that's what I intended to do, because the captain and pilot the next morning didn't approve of that and wanted it astern.

Q. What was your conversation the next morning as to the position of the anchor. Was there anything in that conversation that can call to your mind whether or not you dropped the anchor?

A. Yes. The first thing when I dropped the anchor they had ordered that surf line let go. I think Captain Henry ordered it let go. I asked him what

(Testimony of Frederick C. Miller.)

he did that for, well, he didn't want any anchors and he wanted the ship itself. Macaulay was present at that interview. That's a certainty. I told him all right we'll take that away and I'll go right back to town with it.

Q. What was said between you about the position?

A. After we had this row and I wanted to come ashore they had a little talk pro and con and he said he didn't like the position of the anchor. I said, "If you don't like the position, name one that you like better."

Q. The anchor was down then at that time?

A. I'm under the impression that it was down. He said, "You pick up your anchor, then go and it astern, farther aft and [1888—1056] set right straight aft," and he pointed.

Q. He said, "You pick up your anchor?"

A. I think he said that. The boat was anchored—whether it was the big anchor or the other—the boat was anchored all night.

Q. You said it took possibly half an hour in the "Concord" to get your anchor out?

A. It would take that time to lay that anchor in the best place.

Q. You say it did take that long?

A. It took us longer. A good ship it would take a half an hour.

Q. To pull the anchor up?

A. To pull the anchor up.

Q. It wouldn't take that long to pull up the "Makee's" anchor?

(Testimony of Frederick C. Miller.)

A. Five minutes would pick up the "Makee's" anchor.

Q. And, as a matter of fact, to your best recollection, you did have to pick up that anchor?

A. That's the best of my recollection. The very best of it I think there is no doubt.

Q. What time did you go aboard the "Celtic Chief" that Wednesday? A. We went quite early.

Q. About what hour?

A. It was after daylight. I would say about three o'clock.

Q. And you didn't get your big anchor in position until nine? A. Until nine.

Q. So it must have been. You never got around there sooner than that?

A. I think so. I think there's no question about that.

Q. You say you saw your surf line thrown off on Tuesday night? A. I saw them let it go.

Q. You were in the "Makee"?

A. I was on the "Makee" looking at her with a pair of glasses.

Q. You saw her make fast?

A. I saw our boat with Captain Scott and six or eight kanakas take that line in, pass it over the ship's main deck of the "Celtic Chief" and saw a man take [1889—1057] the line and pull it in, and I thought that it was fast.

Q. Do you know it was fast?

A. I do know it was fast.

Q. How do you know that?

(Testimony of Frederick C. Miller.)

A. Because it was taken through the chock and stayed there.

Q. You couldn't see that it wasn't made fast to any bitts or anything of that sort?

A. I couldn't see that it was made fast.

Q. On account of the bulwarks?

A. The bulwarks would hide it.

Q. You couldn't make any attempt of looking through the chock?

A. You couldn't look over the rail. I couldn't see another man. I think five minutes afterwards it was let go and was let down in the water.

Recess.

Mr. OLSON.—Q. Captain Miller, is this, referring to that voucher which I asked you to try and find among your papers—will you state whether or not this is a true copy of the voucher which was given to you upon the settlement with Captain Medcalfe?

A. I don't remember that they gave me a voucher but I think it's highly probable that they had one.

Q. Do you admit that this is a true copy of the voucher that—

A. If it will help you in any way I'm *will* to admit it. I don't know; I think it likely it is.

Q. Will you admit that it is? If you do, then I'll relieve you of the necessity of finding the original.

A. I don't know that I've got the original and I don't want to admit anything of what I'm not sure, but it's highly probable. Suppose, on the other hand, I should say—

Q. I'm not asking you to swear that it is a true copy. I'm asking you as representing the Miller

(Testimony of Frederick C. Miller.)

Salvage Co. and not the witness on the stand, to admit that this is a true copy of the voucher.

A. I'm willing to admit that it's highly probable.
[1890—1058]

Mr. WEAVER.—We'll admit that it's a true copy.

Mr. OLSON.—Counsel for the Miller Salvage Co., Ltd., admit that this document is a true copy of the account which was referred to. I ask that it be admitted in evidence.

The COURT.—So ordered. Counsel for the Inter-Island Steam Navigation Co. is willing to have that come in?

Mr. WARREN.—I have no objection to its going in that way.

(Document received in evidence and marked Libelee's Exhibit # 4.)

Mr. WARREN.—Q. Referring to the surf line. I understand, Captain, on your direct testimony you said it was about—first, you said, "I saw that line made fast and I saw it let go myself." This is the fact, is it?

A. I saw it taken in. No; I'd like to qualify that. I couldn't see it fast to the bitts because I wasn't on the ship at that time. I saw them taking it aboard, hauling in slack enough to make fast on the bitts because the bitts was just forward of the chock, and then afterwards they let go of it. Of course, it dragged down in the water and Captain Scott went back and picked it up.

Q. Where was the "Mokolii" at that time?

A. The "Mokolii" was lying off near the "Makee." I think on the Ewa side of the "Makee."

(Testimony of Frederick C. Miller.)

Q. Which was right close up to the port quarter of the "Celtic Chief"?

A. Somewhere near there. She was on the port side.

Q. How large was the surf line?

A. The surf line, if I remember right, was four or five inches line. I think a four-inch line. I'm not sure.

Q. And that four or five inch line was taken through the chock?

A. Taken through the chock of the "Celtic Chief" and it was made fast because they admitted it the next morning.

Q. Don't you mean that your heaving line was thrown over? [1891—1059]

A. No, sir; the surf line, they admitted it themselves.

Q. Do you mean they could throw a four or five-inch line away?

A. They didn't throw it up over the rail. If that was the heaving line they threw it over the rail.

Q. What did you see?

A. I saw them—well, what I saw was this, Mr. Warren: I saw them haul that surf line in through the chock.

Q. As distinguished from the heaving line?

A. I don't remember of seeing any heaving line in connection with that matter at all.

Q. So there was no line thrown over the rail at all?

A. I say I didn't see any heaving line thrown over the rail.

Q. This four or five inches line?

(Testimony of Frederick C. Miller.)

A. I'm telling you my impression is that it was a four-inch line.

Q. But you didn't see it made fast?

A. I didn't see it made fast to the bitts because it would be practically impossible for me to see through those bulwarks, but as I stated they admitted it was fast.

Q. Who admitted? A. The captain admitted it.

Q. Who else was present?

A. The pilot was present at the time I asked him why he let go our surf line and Pilot Macaulay also admitted that?

A. Pilot Macaulay was present when I had this talk with the Captain. I didn't direct my conversation to the pilot. I directed it to the captain. I asked him why he had let our line go. Captain Scott had that same talk with him and came back to me and reported.

Q. Captain Scott reported to you—what did you do?

A. We waited until daylight next morning. He said he didn't want to anchor; he wanted lighters. He said he was *huhu* because I didn't come back with lighters and brought anchors and purchase tackle.
[1892—1060]

Q. You didn't come over again that night?

A. I didn't go again that night.

Q. You didn't even go over to him? A. No, sir.

Q. Nor held any conversation.

A. I held none with anybody on board the ship that night. I'd sent my boat over and my man with the line that they let go. I waited until morning.

(Testimony of Frederick C. Miller.)

Q. About how long a time was taken up by the interview next morning?

A. I suppose we was quarrelling there fifteen or twenty minutes.

Q. If you had done that quarrelling the night before you would have been that much ahead the next morning, wouldn't you?

A. If you want to know, I came pretty near taking the boat back to the Hackfeld wharf that night with all my gear; that's what I came pretty near doing.

Q. Did you yourself see that line thrown off?

A. I didn't see it thrown off, but I saw it cut out of the rail into the water.

Q. You saw it run out of the rail?

A. I saw it run out of the rail.

Q. Could you see who was there on the rail?

A. Some of the crew was standing down there by the waist of the ship.

Q. Now, who were leaning over the rail?

A. Some of the ship's crew.

Q. Was the captain there?

A. I don't remember seeing him.

Q. Could you make out any individual with your glasses?

A. I could have made out if he had been down on the main deck. He said he'd ordered it let go but didn't say he let go but said he ordered it let go.

Q. And you went aboard just after daylight on Wednesday morning?

A. Well, shortly after daylight. [1893—1061]

Q. Then after half an hour or so, fifteen or twenty minutes, you went back to the "James Makee" and

(Testimony of Frederick C. Miller.)

took up your anchor?

A. Yes; then we moved again and occupied the position which I indicated the other day. That was as near as we could between the—we had to work in between the “Intrepid” and the “Helene.” I’d lost a good deal of time.

Q. What time do you think it was daylight?

A. It must have been sunrise about six o’clock.

Q. You testified on direct that you waited until the following morning and just after daylight. Daylight, that would be six o’clock?

A. Somewhere around there.

Q. And you took about fifteen minutes, twenty minutes for that conversation?

A. I should think that was the extent of time, fifteen or twenty.

Q. How long do you think you were absent from the “Makee” that morning?

A. I don’t think I was absent from the “Makee”—I don’t think over a half an hour.

Q. Not over that? A. I may have been more.

Q. Probably less?

A. No, I don’t think. I’m giving you the best of my judgment. I think about half an hour. I don’t think it was less.

Q. So you would have got back to the “Makee” after visiting that ship, about half-past six or quarter to seven? A. I would say I was back by seven.

Q. And you got your anchor dropped by the “Intrepid” there by nine o’clock, about two hours.

A. Yes.

Q. Now, if you had had your big anchor on board

(Testimony of Frederick C. Miller.)

the "Makee" it wouldn't take two hours to get around there?

A. Yes, the time was lost in going in around between those two ships. We had a very narrow place to go in and we had two boats to handle; we had the "Mokolii" and we had the "James [1894—1062] Makee."

Q. How long do you think that would take, two hours?

A. We done it as quickly as we could. We didn't lose any time. I would say we took an hour and a half or two hours in moving around there. We had a good deal of maneuvering to do to get in there with that anchor aboard without damaging the "Intrepid" or the "Helene" or doing damage to one of our own boats. And we couldn't handle the "Mokolii" with the lines of the different boats.

Q. Now, as to the bottom of the sea in that vicinity, did you say there was no sand there?

A. I didn't see any, and I examined that bottom pretty carefully, because we lost the buoy of our anchor, and when we went back a couple of days to get that anchor, we had to examine that bottom to find our anchor.

Q. While the ship was ashore you couldn't see the bottom?

A. Standing on the ship's deck and looking down you couldn't see the bottom.

Q. Why not?

A. The motion of the water and her thumping was scratching up the coral and making the water white.

Q. You think that was coral and not sand?

(Testimony of Frederick C. Miller.)

A. Yes, I do.

Q. Isn't the coral in that vicinity—I mean sand—really crushed coral? A. That's what it is.

Q. But you say you could see lumps of coral and lava?

A. Yes, I could see lava rocks plainly and coral heads; there's absolutely no question about the formation of that bottom. I only gave our experience in finding my own anchor. Afterwards and since then I've been running up and down between here and Pearl Harbor and I've had considerable to do in towing for the United States Engineers. There are times when there is no winds when you can see right down to the bottom.

Q. Are you basing your testimony as to danger in this case, Captain, upon the condition of the bottom down there or over [1895—1063] down on the reef or reefs generally?

A. I'm basing my opinion as to danger to that ship upon the ocean's bottom there and in the whole of these Islands. The whole of these Islands is extremely dangerous.

Q. Are you prepared to compare this spot with other spots?

A. All reefs are dangerous. This isn't any more dangerous than other reefs of these Islands and it is extremely more dangerous than the shelving shores of our Atlantic Coast. These Islands are extremely dangerous Islands for a ship to go ashore on, the whole of it, the whole of these Islands.

Q. Isn't any coral reef about the same?

A. All coral reefs? No, I beg to differ with you,

(Testimony of Frederick C. Miller.)

for this reason: some coral reefs are simply all coral and no lava rock, but these Islands are not all coral. The larger portion of these shores that I've observed are interspersed with lava rocks and that makes it even more dangerous than a coral atoll would be.

Q. Then you consider danger from this particular reef?

A. Yes, I do. From this particular reef on this Island of Oahu, and the whole Islands of Oahu and any island that I have seen in the Hawaiian group on account of the lava rocks interspersed among the coral.

Q. But at this particular spot and this particular reef where the "Celtic Chief" was, you saw lava?

A. I saw lava here and lava rocks and our anchor was finally found under one.

Q. Now, referring to some of the testimony that you've given before, Captain, the tendency of the swell, on direct examination, the question was about what was the direction of this swell to which you answered they are northerly in the fore and aft line of the ship. What can you say of the tendency of this swell was to make any danger in the position of the "Celtic Chief"?

A. Yes, I do know the tendency of that swell was to heave her in on the beach. [1896—1064]

Q. You were also asked, "Can you say—what can you say of any other effect that this swell would have than forcing the 'Celtic Chief' forward as you have described?" to which you said, "None other—it could have but one effect on her and that was to pile her up." Then in the testimony next day you said,

(Testimony of Frederick C. Miller.)

“Now, one tendency of that ship and what actually occurred was that she went directly toward the beach, the swell sent her directly toward the beach.” You testified to that yesterday or day before?

A. What it would have been with the agency of the Inter-Island boats would be another proposition, your Honor.

Q. Now, in that testimony, Captain, do you mean to be understood as testifying that when you say that the only way the “Celtic Chief” moved was directly on the beach, that that was the only way she would have moved if no pulling agencies had been there?

A. Why, no, I do not. I don’t know as I have stated it, but I have tried to several times. The only tendency of that ship all the time she was on that reef was to go straight in further in, but there was three or four boats pulling on her nearly all the time as far as I can observe. I did observe they were pulling with a greater or less degree of power. There was power being exerted on her all the time. Put it that way. Now, that tendency, she would have a tendency to keep, furthermore, strongly aground, she would have broken open; there is no doubt about that.

Q. Now, on Wednesday noon, before you got your anchor-line taut, was the “Celtic Chief” still going on the reef? A. Before we got our—

Q. Before you got your anchor taut on Wednesday?

A. If I remember right, she had already—Wednesday? Yes, she had gone on the reef, but Wednesday

(Testimony of Frederick C. Miller.)

she had gone on from a length from half to three-quarters of her length.

Q. I mean on Wednesday?

A. On Wednesday. Yes, sir, she was still on the reef.

Q. Still going on? A. Yes, I think she did.

Q. You didn't take any observation to determine that? [1897—1065]

A. I'm not sure whether I did or not.

Q. Well, wouldn't you know?

A. I know that she went on. Yes, I could bet she went on Wednesday, I think, some too and I think we took bearings of her too.

Q. Did you take a bearing of her Tuesday morning when you left?

A. I took a bearing Tuesday morning and we took a bearing Monday morning before we left the dock. We took a bearing of that ship before we went aboard her. We took a bearing again Tuesday morning before we went to see the other bearings again.

Q. How much would you say she moved in on Wednesday?

A. She didn't go in much on Wednesday, Mr. Warren. That ship went in on the beach Monday and Monday night more than she did at any other time.

Q. Well, do you think that the cause of that would be traced in part to the fact that she was being lightered?

A. I think it was in part that and in part the swell was heavier on Monday and Monday night and on

(Testimony of Frederick C. Miller.)

Monday she didn't have outside help at all. I don't think the Inter-Island boats got there before, if I remember right, somewhere about eleven o'clock, ten or eleven o'clock.

Q. Might have been ten o'clock?

A. Might have been ten o'clock.

Q. Might have been before ten o'clock as far as you know?

A. They may have got there before ten, but, if I remember right, their lines weren't fast to her until somewhere about ten o'clock. I would say that as near as I can remember.

Q. Now, at noon on Wednesday, you said afternoon would be the next high water?

A. The next high water, if I remember right, was Thursday morning, about nine o'clock.

Q. That's high water large?

A. As near as my remembrance goes, yes. I'm not giving you this information from the files, looking over the morning's "Advertiser" and getting it from there. I hadn't seen that book. [1898—1066]

Q. I'd like to ask you, Captain, you know, you are familiar with the tide tables? A. Yes.

Q. As published by the Government printing office at Washington, Coast Geodetic Survey?

A. Yes, I'm familiar with them.

Q. Referring to pages tide table, will you give us the of high tide for December 8?

A. December the 8th?

Q. 1904, high water large? A. 1:28.

Q. A. M.? A. A. M.

Q. How many feet?

(Testimony of Frederick C. Miller.)

A. One foot five; one foot and a half about that, five-tenths.

Q. Above mean water? A. Above mean water.

Mr. WEAVER.—Mean low?

A. Mean low. I told you one o'clock. This book gives it later on Thursday. I was telling you I hadn't seen this book.

Q. I'm talking about Wednesday.

A. This says two o'clock.

Q. Thursday was about 1:28?

A. No, sir; Wednesday was 1:28; Thursday was two o'clock.

Q. 1:28 in the afternoon?

A. 1:28 in the afternoon.

Q. That would be high water large or high water small? A. That would be high water small.

Q. And high water large would fall at what time, Thursday morning?

A. At two o'clock Thursday morning.

Q. According to that table?

A. According to this table, that would be two-tenths higher than the previous high water.

Q. Two-tenths of a foot?

A. Two-tenths of a foot.

Q. On Wednesday it was one foot and five-tenths and Thursday seven-tenths, isn't that the way that you read Thursday afternoon?

A. Thursday, two P. M.

Q. What about Thursday morning early?

A. Thursday morning, that would be 1:12.

Q. That was the high tide more close to the time the "Celtic Chief" came off?

(Testimony of Frederick C. Miller.)

A. Yes, sir. [1899—1067]

Q. It was high water small at two o'clock on Thursday? A. Yes.

Q. And it was high water large at one-twelve on Thursday morning?

A. One-twelve Thursday morning.

Q. And Wednesday afternoon it was high water small at— A. One twenty-eight.

Q. One twenty-eight?

A. Yes, and high water at 1:30, 12:30.

Mr. OLSON.—In the morning?

A. In the morning.

Mr. WEAVER.—May I ask a question. Here (pointing to Wednesday, the 8th), the column marked 1:28 and under that one small five; what does that mean? When you find 1:28 is it midnight or midday? A. Midday.

Q. Then the next in the column is eight; that must be—

A. Eight o'clock at night and then 12:30 is at night and so on.

Mr. WARREN.—Q. You saw the "Intrepid's" line on Monday?

A. I saw the "Intrepid's" line on Monday.

Q. What was the condition of her line then?

A. It was taut and she was pulling on it.

Q. How taut, as far as you could observe it?

A. Well, it was—I think that they were pulling as hard as they could.

Q. Well, as to the line?

A. The line was taut. When they cut it that was a mean piece of business to—

(Testimony of Frederick C. Miller.)

Mr. OLSON.—I ask that be stricken from the record.

The COURT.—It will be.

Mr. WARREN.—You've said that at the time of the conference with the "Arcona," between the "Arcona" officers and the "Celtic Chief" officers, Captain Haglund went away but you don't know where he went. Did you see him go?

A. I saw him go over the side. I don't know how far he went over the ship's side.

Q. You didn't see him again that day, until you came [1900—1068] out at the second bump?

A. I don't remember of seeing Captain Haglund again until I came out at the second bump and he was on deck. As far as I know, I never saw him any more from the time he went over the ship's side to the time of the second bump when he came on deck.

Q. Did you have any idea of where he was at the time of the first bump? A. No.

Q. For all you know he may have been aboard?

A. He may have been aboard.

Q. He was not among those down in the cabin?

A. He was not with us in the cabin, that's sure.

Q. He furnished the food, the lunch himself?

A. Well, they told me he furnished the food and I guess he did because that ship never produced it.

Q. When you came out between the bumps you didn't notice him? A. No.

Q. You wanted to get back as soon as you could?

A. I didn't stay on deck very long.

Q. Where did you go when you came out that time?

(Testimony of Frederick C. Miller.)

A. Came out on the main deck. I think I went up on the poop. I'm not sure. I know I came up on the main deck.

Q. You know you came up on the main deck?

A. I know I did.

Q. I think you said that there was possibly an hour between the bumps, did you not?

A. I said possibly there was.

Q. Well, you stated so on direct examination?

A. I think I did. If I didn't I say so now.

Q. After that first bump did you get up right away or did you sit there?

A. I didn't get right up but after the first bump I stayed there a few minutes until they got quiet again.

Q. How long do you think you stayed there before you left to come out and investigate?

A. Not long.

Q. Ten minutes? A. Possibly. [1901—1069]

Q. Now, if you're told, Captain, that Captain Haglund was on the poop at the time of that first bump; would you be prepared to say he was not?

A. No, I wouldn't.

Q. He might have been there?

A. Sure, he might.

Q. You went up on the poop?

A. I'm not sure.

Q. If you had gone up on the poop don't you think you would have seen him?

A. I might and might not. It was a dark night.

Q. The "Arcona's" search-light was playing?

A. Yes. I say I didn't see Captain Haglund but

(Testimony of Frederick C. Miller.)

there was a man, many men on the poop.

Q. They were not up on the poop?

A. Some of them on the poop.

Q. Of those men down on the poop they would have been off the ship, weren't they?

A. No, they weren't. I had some of them up and down.

Q. Just a few kept?

A. A few to have up there.

Q. So that there couldn't have been a crowd in which he could have been hidden?

A. I didn't see him. He may have been there.

Q. Now, you say that you all knew of that first bump? A. Our men did.

Q. How do you know that?

A. Well, because the kanakas began to shout and began to talk.

Q. You heard them down the cabin?

A. I could hear them in the cabin.

Q. You could hear them shouting up there? They weren't shouting out loud enough for you to hear them? A. Loud enough for me to hear it.

Q. Don't you think that the captain of the ship and Captain Macaulay felt that there was something doing?

A. The captain of the ship did. He jumped out of his chair and went out. I know he felt something was doing.

Q. A bump violent enough to direct his attention?

A. That's what it was. [1902—1070]

Q. And when you and the others ran out on deck after the second bump that line was already straight

(Testimony of Frederick C. Miller.)

up and down at the stern of the "Celtic Chief"?

A. Practically straight up and down.

Q. And the "Celtic Chief" was afloat?

A. The "Celtic Chief" was afloat.

Q. And about halfway to the "Arcona"?

A. Yes, the distance was little more than halfway, as near as I could judge.

Q. Did that happen by the time you could get on deck? A. Yes.

Q. And in that interval of fifteen or twenty minutes or half an hour immediately prior to the second bump, you don't know really what was going on on the deck of the "Celtic Chief"?

A. I don't expect that our men was pulling.

Q. Or what the other steamers were doing?

A. I don't know what the other steamers were doing while I was in the cabin.

Q. They may have been pulling hard, for all you know? A. They may have been pulling hard.

Q. As far as your knowledge goes—

A. While I was in that ship's cabin they may have been pulling hard.

Q. Now, when you got outside and found the "Celtic Chief" afloat and away, as you say, more than halfway to the "Arcona," what—were the men cutting the Inter-Island steamer lines?

A. No, they weren't cutting them then. The orders were given afterwards. There was no lines cut—no lines let go when I first came out of the cabin.

Q. All the vessels were fast?

A. Every boat was fast when we first came out of that cabin.

(Testimony of Frederick C. Miller.)

Q. And their lines were fast? [1903—1071]

A. When we first came out the lines were slack except the "Mikahala's," as she was pulling.

Q. What did you observe about the "Arcona"?

A. I didn't see her lines as well as I saw the other lines.

Q. The other lines, you say, were not pulling?

A. The other lines were slack. The "Arcona's" lines were slack. We couldn't see them at all over the stern.

Q. Well, did you observe the "Arcona" lines with any particularity?

A. I observed the "Arcona's" lines particularly at her stern, slack down in the water. I couldn't say how far down in the water they were.

Q. Why did you say the "Mikahala" was pulling, still pulling?

A. Because I think it was the "Mikahala" that saved the "Arcona."

Q. On direct testimony you were asked what vessel was pulling the "Celtic Chief" away and were asked the specific question, "Was any other vessel pulling her away?" to which you replied, "I think the 'Mikahala.' I'm not certain. I think the 'Mikahala' possibly saved the 'Arcona' from a bump." Now, did you say that? What do you mean by that?

A. I mean by that that the "Helene" and the "Likelike" seemed to be no use and they wanted to cut her, if I remember right, cut her adrift first and get out of the way, and I think, if I remember right, the "Mikahala" held on to her lines. They couldn't let go of her lines and had to shift her.

(Testimony of Frederick C. Miller.)

Q. What do you mean by saving the "Arcona" from a bump?

A. Pulled her over on the side of the "Arcona" so that in case the "Celtic Chief" kept on going, that she'd go by her right over her quarter and not come straight over in her.

Q. In what direction?

A. You see, the "Celtic Chief's" stern was coming directly astern for the "Arcona," stern and stern, and I think the "Mikahala" pulled her over that side; depends which side you were standing on whether it was port or starboard. Ewa side—I mean Waikiki side.

Q. In what direction was the "Mikahala" headed?

A. The "Mikahala" was headed approximately towards Diamond [1904—1072] Head. She was headed towards starboard quarter of the "Celtic Chief" and she would have a tendency to pull her over that way.

Q. When did you observe that, immediately on coming out of the cabin?

A. No, not immediately, because the first thing I observed on coming out of the cabin was my own lines, and then called the pilot's attention to the signal, the range lights, and to the distance that had been taken up, so that I couldn't see everything all at once and I didn't see anything at once.

Q. How much time elapsed, do you think, from the time you felt that second bump until you got on the deck?

A. From the time we felt that second bump it wasn't ten seconds—say, fifteen; just as quick as we could rush up.

(Testimony of Frederick C. Miller.)

Q. What Inter-Island lines were cut first, if you know?

A. As near as I can remember, the only line of the Inter-Island that was cut was the "Likelike."

Q. And he let go what lines first?

A. I don't know, but—I don't know. I think it was the "Helene's" and "Likelike's." I don't know. There was men working on both sides and lines practically at the same time.

Q. How many lines did the "Mikahala" have?

A. She had one eight inch, that I'm sure of, a new eight-inch line. I judge it to be an eight inch; but I'm not sure that she had a second line. I wouldn't say now for a certainty, but I'm giving you my impression. The "Mikahala" had two lines. I think they reinforced their line with another one.

Q. When you said on direct testimony that the "Arcona" came as near being bumped as any ship ever did, will you state why you made that statement? How near, as a matter of fact, did the "Celtic Chief" approach the "Arcona"?

A. The "Celtic Chief" approached the "Arcona" within about once her length.

Q. Once of the "Celtic Chief's" length? [1905—1073]

A. About once of the "Celtic Chief's" length.

Q. And then what?

A. Then she was pulled off a little to one side. She seemed to leap over. You see, they started ahead then on the "Arcona," I think, and I think all the boats started pulling then when she once came off.

Q. What was it that increased the distance again

(Testimony of Frederick C. Miller.)

between the "Arcona" and the "Celtic Chief"?

A. When that second red light went up I think they all started pulling.

Q. Would that tend to increase the distance or decrease it? A. Decrease it.

Q. You think she came, at the closest, about her own length? A. About her own length.

Q. Was she still moving toward the "Arcona" when the "Mikahala" started pulling her sideways?

A. I don't think, from the time that she started off she lost her headway until she nearly stopped going.

Q. If the "Mikahala" had not pulled her aside, do you think the headway of the "Celtic Chief" was enough to cause her to bump into the "Arcona"?

A. I'll tell you what I think, Mr. Warren: if the "Mikahala" and the "Helene" hadn't kept pulling after our anchor was down there was nothing to have stopped the "Arcona" from going into her, because her headway when she came off that reef never seemed to stop. In other words, when she started to come off she come off a little ways and stopped—she seemed to keep on coming. When the ship came off the reef there was nothing could stop or oppose her motion between the first and second bumps. What I mean is, that she moved gradually and then suddenly.

Q. From the time of the first bump was there a little bump? A. I didn't see that.

Q. If you were in the cabin couldn't you feel her moving—along the bottom? [1906—1074]

A. No, we only felt that outside as we went out on deck. We went down in the cabin again and all

(Testimony of Frederick C. Miller.)

that I heard in that cabin was our men heaving on that purchase.

Q. You said, "We went out on deck." Who do you mean by "we"? A. All three of us.

Q. I thought you were talking about the first bump?

A. Oh, no; the first bump we didn't come out of the cabin at all.

Q. From the conditions you observed the "Celtic Chief" coming off, do you think there was any danger of a collision but for the interference of the "Mikalaha"?

A. We was in position to bump the stern of the "Arcona."

Q. Never mind that part. Was there any danger?

A. Danger?

Q. Of a collision?

A. Well, it wouldn't have been a bad one, but she would have just bumped her a little bit.

The COURT.—That really doesn't answer the question.

A. There was a danger of a bad mix-up by all of the Inter-Island boats.

Q. How mix-up?

A. You see, the Inter-Island boats were fast to her.

Q. The Inter-Island boats were cast loose?

A. As soon as they could, but you couldn't let loose instantly. It took some time to get away. It took some time for the "Arcona" to get out of the way. It took her longer than the Inter-Island boats.

Q. Now, in your direct testimony you referred to the manoeuvres of the "Arcona" as *opera buffet* and

(Testimony of Frederick C. Miller.)

said in explanation of that term, "She came near being bumped by the stern and we got them there and they couldn't take her after we got her afloat, and they had to turn her over to Captain Haglund to bring her in to an anchorage." What do you mean by "they couldn't take her—the 'Arcona'"? [1907—1075]

A. After we got well out to sea, I couldn't tell you how far but I should say three or four miles.

Q. Three or four miles?

A. I should say three miles; yes. I thought she was heading for Molokai.

Q. What do you mean by the "Arcona" couldn't take her?

A. I mean the "Arcona" couldn't take her into an anchorage, didn't want to.

Q. How do you know that?

A. I know that for this reason. She had her lines fast on to the stern and she couldn't steer with that ship fast on the stern, and the commanding officer or one of the other officers wanted some other boat to bring her into an anchorage.

Q. You heard that? A. I heard that.

Q. Out at sea that night?

A. I heard that that night on the deck.

Q. How did the "Arcona" tow? How many lines? A. The "Arcona"?

Q. Yes, in taking her out to sea how many lines did she have on the "Celtic Chief" when she towed her out?

A. She had two lines and then when they agreed to turn her over to Captain Haglund she let go first

(Testimony of Frederick C. Miller.)

one and then the other.

Q. Now, in proceeding out to sea in what manner did the "Celtic Chief" pull the "Arcona"?

A. Well, goodness knows what manner. She pulled in a bad manner because the "Arcona" had these lines fastened on the after bitts and I judge from the course she took they couldn't steer and they couldn't turn. No vessel can tow another vessel and make a turn with lines fast on the after end.

Q. What would be the effect, as a matter of navigation, in the manipulation of vessels at sea when one vessel is pulling another vessel by two lines, as those were, as to strain on one line or the other?

A. As she'd turn there'd be naturally more strain on the outside line. [1908—1076]

Q. Did they make any turns going out to sea that night?

A. Not any sharp turns. She was headed out not towards Molokai but straight over to seaward. They were going seaward and they got mixed up there with their lines in towing and to get back they turned her over, the "Likelike" took her.

Q. What about the relative strain of these lines when the manoeuver was going on—would you say one was tauter than the other?

A. They naturally would be. You couldn't have both them lines, both the same strain, because as they'd turn this line would have a bigger strain than the other one.

Q. What kind of a motion did the "Celtic Chief" have in pulling the "Arcona" out?

A. As soon as the "Arcona" had on her two lines

(Testimony of Frederick C. Miller.)

fast the "Celtic Chief" stayed behind her.

Q. I mean as to her progress through the water. How fast? What kind of a course did she describe through the water—straight course or otherwise?

A. I don't know. I didn't observe that very carefully.

Q. You were on board the "Celtic Chief"?

A. I was on board the "Celtic Chief" on the after deck, poop deck. I know there was some difficulty about her lines. There was a conference, Captain Haglund and the pilot and Captain Henry, to let one of the Inter-Island boats take hold of the "Celtic Chief" and bring her into an anchorage. They didn't want to try it.

Q. You heard that arrangement made out there at sea?

A. I heard that arrangement made out there at sea between those men.

Q. What did you hear from the "Arcona" as to whether or not they could take the vessel?

A. Well, they didn't want to do it.

Q. What did they say? In substance, if you can't remember.

A. I wouldn't like to state because I wouldn't like to trust my memory that far. I know they didn't want to take [1909—1077] her and wanted to get rid of her.

Q. Do you know whether or not any request was made for the Inter-Island to take her?

A. I do that because Haglund wouldn't touch her until they asked him to. There was some little—I can't think of just the words. Some little differ-

(Testimony of Frederick C. Miller.)

ence about the thing. I think Haglund was sticking out for the officer of the "Arcona" to take her but the Captain of the "Celtic Chief" asked him. I know he objected to it until they asked him to.

Q. Now, the ship's winch. You said you used that during the afternoon for hauling your tackle taut?

A. Yes.

Q. And you used that after dark?

A. I used it once after dark, Mr. Warren.

Q. About what time?

A. I think about 8 o'clock, when we wanted to make a good big heave. I think it was about that time that I went up to the donkey-man and gave him a few dollars to get the steam up.

Q. You wanted to make a special pull?

A. Well, I wanted to save my men, if I could, for the last stretch and I didn't want to tire them out early in the evening. I wanted to have them back about ten or eleven o'clock.

Q. They had been straining all afternoon?

A. The men had to work all the time.

Q. Wasn't part of the reason that you wanted them, that you considered power of the winch a little greater than the power of the sixteen men?

A. On the contrary, I think we had more power on the capstan with our men on the capstan bars and the purchase than we had with the ship's winch and donkey.

Q. Then why did you prefer to use the weaker power?

A. Because with the capstan forward I could have busted our lines. With the steam winch we

(Testimony of Frederick C. Miller.)

could heave all that we wanted to pull with the lines and still not break them.

Q. You could have done that with the men just as well? [1910—1078]

A. We could do that but I wanted to save my men.

Q. How long did you use the winch?

A. I don't think we used that winch before and after dark. I don't think we used that steam winch over an hour at the utmost.

Q. Consecutively? An hour without interruption?

A. I don't recall all the time. We weren't heaving all the time. As a little swell would come we'd take it.

Q. You really tried to get that winch every time you could? A. That night?

Q. All the time.

A. During the daytime.

Q. And at night also?

A. We didn't care so much about it at night.

Q. So you didn't try to use the winch after eight-thirty?

A. I said about eight o'clock we got the winch and used it for an hour and then they told us we couldn't use it until the Inter-Island had stopped lightering. The Inter-Island stopped lightering at eight-thirty—at eight-thirty Wednesday night.

Q. Sure of that?

A. As near as I can remember; yes.

Q. Isn't it a fact that they were unloading cargo up to five minutes before the ship came off?

A. No, not to my knowledge.

(Testimony of Frederick C. Miller.)

Q. Weren't you down in the cabin?

A. I was down in the cabin.

Q. Don't you know that they brought the barge out there with a donkey on it and used that right up to a few minutes before the ship came off?

A. No, I don't.

Q. Wasn't the winch taken away from you?

A. During the day. They wasn't working the ship up to five minutes before she came off.

Q. Half an hour?

A. No, not within an hour—not within two hours.

Q. What is your judgment as to the time they were there [1911—1079] last, lightering?

A. The last lightering, to the best of my judgment, that they took out of that ship was about half-past eight or nine o'clock.

Q. You'll say nine, at the latest?

A. Nine at the latest.

Q. And you'll say they didn't do any lightering after nine?

A. To the best of my judgment they never took a bag of that cargo after nine o'clock.

Q. So you don't believe, though the Inter-Island were not using that winch, you didn't make any effort to get it after nine o'clock but one time?

A. We didn't want it after nine o'clock.

Q. And you didn't use it?

A. I don't think we use it after nine o'clock.

Q. And if the Inter-Island had been lightering—

A. They were not taking out of the after hatch and they had another hoisting engine alongside.

